

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ELAINE LEVINS and WILLIAM
LEVINS, on behalf of
themselves and others
similarly situated,

Plaintiffs,

vs

HEALTHCARE REVENUE RECOVERY
GROUP, LLC d/b/a ARS ACCOUNT
RESOLUTION SERVICES, and
JOHN AND JANE DOES 1 THROUGH
25,

Defendants.

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before KATHLEEN SWENOR, a Registered
Professional Reporter, Certified Court Reporter
and a Notary Public of the State of New Jersey,
held at the offices of MARKS O'NEILL O'BRIEN
DOHERTY & KELLY, PC, 535 Route 38 East, Cherry
Hill, New Jersey on October 24, 2019, commencing
at 10:00 in the morning.

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1 DAVID FRIEDLANDER,
2 having been first duly sworn by the Notary Public,
3 was examined and testified as follows:

4 EXAMINATION BY

5 MR. STERN:

6 Q. Mr. Friedlander, can you state your
7 full name and spell your last name for the record,
8 please.

9 A. Yes. David M. Friedlander,
10 F-R-I-E-D-L-A-N-D-E-R.

11 Q. My name is Phillip Stern. I'm one of
12 the attorneys representing Elaine Levins and
13 William Levins in connection with a lawsuit that
14 they brought against Healthcare Revenue Recovery
15 Group, LLC.

16 Do you have some understanding as to
17 what that lawsuit is about?

18 A. Yes.

19 Q. Before we begin there's going to be
20 some instructions I would like to be able to
21 inform you about in terms of the deposition. At
22 one point in this case Mr. Scheuerman, on behalf
23 of Healthcare Revenue Recovery Group, and I, on
24 behalf of the plaintiffs, agreed that depositions
25 should be held in accordance with -- there's a

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1 court decision from 1993 that outlined some rules
2 with respect to that. The case is called Hall
3 versus Clifton Precision. So there's some things
4 that are to be read to inform you at the beginning
5 of the deposition, so I'm going to do that quoting
6 from that decision.

7 Number one, "At the beginning of the
8 deposition deposing counsel shall instruct the
9 witness to ask deposing counsel, rather than the
10 witness's own counsel, for clarifications,
11 definitions, or explanations of any words,
12 questions, or documents presented during the
13 course of the deposition. The witness shall abide
14 by these instructions."

15 Do you understand that instruction?

16 A. Yes.

17 Q. Two, "All objections except those which
18 would be waived if not made at the deposition
19 under Federal Rules of Civil Procedure
20 32(d)(3)(b).

21 MR. SCHEUERMAN: Federal rules of
22 evidence.

23 MR. STERN: I'm sorry.

24 MR. SCHEUERMAN: Federal Rules of
25 Evidence.

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1 MR. STERN: What's Federal Rules of
2 Evidence?

3 MR. SCHEUERMAN: Federal rule 32(d)(b).

4 MR. STERN: You're saying it's a
5 Federal Rule of Evidence?

6 MR. SCHEUERMAN: That's what the
7 decision said.

8 MR. STERN: Mine said Federal Rules of
9 Civil Procedure. I'm not aware of a Federal
10 Rule of Evidence 32.

11 MR. SCHEUERMAN: I have a Federal Rule
12 of Evidence right here.

13 MR. STERN: Federal Rule 329(d)?

14 MR. SCHEUERMAN: Actually, I'm sorry,
15 no. You are right. No, you are right.
16 Federal rules. You are right. I'm sorry.
17 Go ahead. My apologies.

18 MR. STERN: I'm going to restart.

19 BY MR. STERN:

20 Q. Paragraph two says, "All objections
21 except those which would be waived if not made at
22 the deposition under Federal Rules of Civil
23 Procedure 32(d)(3)(b), and those necessary to
24 assert a privilege to enforce a limitation on
25 evidence directed by the court or to present a

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1 motion pursuant to Federal Rules of Civil
2 Procedure 30(d) shall be preserved; therefore,
3 those objections need not and shall not be made
4 during the course of depositions."

5 Three, "Counsel shall not direct or
6 request that a witness not answer a question
7 unless that counsel has objected to the question
8 on the ground that the answer is protected by a
9 privilege or a limitation on evidence directed by
10 the court."

11 Four, "Counsel shall not make
12 objections or statements which might suggest an
13 answer to a witness. Counsel statements when
14 making objections should be succinct and verbally
15 economical stating the basis of the objection and
16 nothing more."

17 Five, "Counsel and their witness,
18 clients shall not engage in private off-the-record
19 conferences during the depositions or during
20 breaks or recesses except for the purpose of
21 deciding whether to assert a privilege."

22 Do you understand that, instruction
23 number five?

24 A. Yes.

25 Q. Number six, "Any conferences which

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1 occur pursuant to or in violation of guideline
2 five are a proper subject for inquiry by deposing
3 counsel to ascertain whether there has been any
4 witness coaching and, if so, what."

5 Seven, "Any conferences which occur
6 pursuant to or in violation of guideline five
7 shall be noted on the record by counsel who
8 participated in the conference. The purpose and
9 outcome of the conference shall also be noted on
10 the record. Deposing counsel shall provide to the
11 witness's counsel a copy of all documents shown to
12 the witness during the deposition. The copy shall
13 be provided either before the deposition begins or
14 contemporaneously with the showing of each
15 document to the witness. The witness and
16 witness's counsel do not have the right to discuss
17 documents privately before witness answers
18 questions about them."

19 And number nine, "Depositions shall
20 otherwise be conducted in compliance with the
21 opinions which accompanies this order."

22 I don't expect you will know what
23 number nine is because I have not provided you the
24 opinion to read.

25 With respect to those first eight

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1 instructions, are there any questions you have
2 about them or anything you did not understand?

3 A. Two I didn't really understand. If you
4 could go over that and maybe explain that.

5 Q. Okay. That talks about objections
6 raised by your counsel and the limitations on what
7 objections can be made. That direction -- that
8 guideline is really more guided towards what your
9 counsel's behavior is as opposed to you and the
10 answers you must give.

11 A. Okay.

12 Q. It has to do with what objections are
13 reserved automatically and what objections must be
14 raised during the deposition in order to be
15 preserved.

16 A. Okay. Other than that, I'm okay.

17 Q. Okay. Particularly talking about the
18 need to speak with counsel during the course of
19 the deposition, is there -- before we begin the
20 deposition -- let me start over.

21 With regard to the guidelines
22 concerning your ability to confer with counsel
23 once the deposition is underway, you understand
24 it's very limited. You can only discuss with your
25 counsel any issues as to a privilege that you

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1 might assert; do you understands that?

2 A. Yes.

3 Q. So before we begin the deposition,
4 would you like the opportunity to be able to
5 confer with your counsel privately?

6 A. Before we start?

7 Q. Yes.

8 A. No, it's not necessary.

9 Q. Okay. But you understand once we start
10 your ability to request a conference with your
11 counsel is limited to issues regarding whether you
12 have a privilege to not provide information?

13 A. Yes.

14 Q. Do you understand you are appearing for
15 depositions to answer questions both as to your
16 own personal knowledge of facts and as an
17 authorized representative of Healthcare Revenue
18 Recovery Group, LLC?

19 A. Yes.

20 Q. What is your understanding of what this
21 lawsuit is about?

22 A. The Levins are contending they didn't
23 know who ARS was when they received information
24 about a debt that was owed.

25 Q. When you say "they received

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1 information," do you know what information they
2 received?

3 A. I don't know what information might
4 have made them unclear as to the company that was
5 collecting on behalf of the physicians, so I don't
6 know what it was that led to the unclarity. I
7 believe it was a phone call that they received.

8 Q. Did you do anything in preparation for
9 the deposition today?

10 A. Yes.

11 Q. What did you do?

12 A. I reviewed the account information in
13 our account notes; I looked at the document that
14 was presented that had the subjects that would be
15 discussed or questions that might be asked during
16 the deposition; I met with counsel to talk about
17 the facts and what I was being deposed about; and
18 I reviewed the information we had received about
19 the deposition today.

20 Q. Did you speak with anyone, other than
21 counsel, in preparation for the deposition?

22 A. No. Oh, maybe internally with Kim
23 Durr, she is a paralegal.

24 Q. Spell the last name.

25 A. D-U-R-R.

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Exhibit 1

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1 Q. She is a paralegal. For whom is she
2 employed?

3 A. She is employed by Healthcare Financial
4 Services and TeamHealth.

5 Q. When you reviewed the account notes,
6 did they reflect phone calls being placed to the
7 Levins?

8 A. Yes.

9 Q. From those account notes, were you able
10 to ascertain any information about the content of
11 those phone calls?

12 A. Yes.

13 Q. What were you able to ascertain about
14 the content of those phone calls?

15 A. The time of the phone calls, the dates
16 of the phone calls, and the conversations that
17 took place in highly abbreviated terms. There
18 could be notes that are entered by an agent.

19 Q. What do you mean by the word "agent"?
20 I'm referring specifically -- you used the word
21 agent in your last answer. I'm asking what do you
22 mean by agent?

23 A. A representative of Healthcare Revenue
24 Recovery Group or ARS.

25 Q. When you say "representative," are all

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1 agents employees?

2 A. Yes.

3 Q. What's the name of the entity that --
4 actually, withdraw that.

5 You made reference before to a debt
6 which was attempted to be collected from the
7 Levins. Do you recall making reference to such a
8 debt?

9 A. Yes.

10 Q. What's your understanding of what that
11 debt was?

12 A. Can you clarify the question?

13 Q. Sure. What facts do you know about the
14 debt?

15 MR. SCHEUERMAN: I'm going to -- how is
16 this related to the true name issue? I'm
17 going to object.

18 MR. STERN: Are you instructing him not
19 to answer?

20 MR. SCHEUERMAN: I don't know. Can you
21 give me a proffer? Getting into the merits
22 of the debt, how is that relevant to the true
23 name issue?

24 MR. STERN: I think we had an
25 instruction about what he said, what his

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1 understanding of what the case is about. I
2 think it would be easier to talk if we had
3 some understanding as to what the debt is.

4 MR. SCHEUERMAN: But how is that
5 related to the true name issue, whether
6 HRRG -- it's limited, as the judge said,
7 whether -- you know the two issues, so how is
8 that relevant?

9 MR. STERN: I just said in order to
10 have a discussion about that we need to have
11 some foundational information so that we are
12 on the same page about what we are talking
13 about.

14 MR. SCHEUERMAN: About what? About a
15 debt was owed?

16 MR. STERN: Not about there was a debt
17 owed but some understanding of what the
18 nature of that debt is.

19 MR. SCHEUERMAN: How is the nature of
20 the debt relevant to --

21 MR. STERN: I think it will come out
22 because I think -- have your client leave the
23 room.

24 MR. SCHEUERMAN: Sure.

25 (Witness leaves the room.)

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1 MR. STERN: The position has been taken
2 ARS is an unincorporated subdivision of HRRG.

3 MR. SCHEUERMAN: Okay.

4 MR. STERN: I don't know what the
5 basis -- why some medical debts are collected
6 by that subdivision and some medical debts
7 are not collected by that subdivision but are
8 being collected by HRRG. I think that having
9 some understanding of having him describe
10 what the debt is can lead into that. I'm
11 saying it's foundational in terms of getting
12 to -- talking about and understanding because
13 what the issue is going to come down to is
14 what HRRG's use of the term is.

15 MR. SCHEUERMAN: Okay. That's fine.

16 MR. STERN: So I need to know when.

17 MR. SCHEUERMAN: You want to know the
18 distinction to see how it's used by HRRG?

19 MR. STERN: I don't know if it's -- I
20 haven't gotten there yet. I don't think I
21 have to approach it in a particular order. I
22 think that -- but I think this is sort of --

23 MR. SCHEUERMAN: For that issue, then
24 that's fine.

25 MR. STERN: Okay. That's all I want to

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1 do. We are not getting into the merits of
2 the debt.

3 MR. SCHEUERMAN: Okay.

4 (Witness returns.)

5 BY MR. STERN:

6 Q. I'll repeat the question. The question
7 is, what is your understanding of what the debt is
8 that was allegedly owed by the Levins?

9 A. It's an obligation to pay money to the
10 physician group that provided, I believe the
11 Levins' daughter, with healthcare services.

12 Q. HRRG provided the collection services
13 for that physician group; correct?

14 A. For the company that bills for the
15 physician services.

16 MR. STERN: Let's mark this as D-1.

17 (Exhibit D-1, Term definitions, marked
18 for identification, as of this date.)

19 By MR. STERN:

20 Q. Mr. Friedlander, I'm showing what has
21 been marked as D-1. It's a document that I
22 prepared trying to define some terms. I make
23 reference --

24 MR. SCHEUERMAN: I'm going to note this
25 is something that --

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Exhibit 1

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1 MR. STERN: Hold on. Are you making an
2 objection?

3 MR. SCHEUERMAN: I object to the form
4 of the document. This is not something that
5 was ever produced in discovery before today.
6 This is the first time I'm looking at it, and
7 it was prepared by counsel. So it's not in
8 the discovery record.

9 MR. STERN: Okay. Your objection is
10 noted.

11 BY MR. STERN:

12 Q. So I want to explain it to you, and we
13 can talk about the substance of it, what I did
14 here. So there's a document that your counsel
15 produced. The document is marked. Do you know
16 the term used sometimes as a "Bates stamp"? Have
17 you ever heard that term?

18 A. Yes.

19 Q. And just sort of to cut this, a Bates
20 stamp is a way of paginating documents in a
21 litigation. It's one of the uses of it by usually
22 having some kind of prefix and digits to follow it
23 that are sequential. Is your understanding
24 similar or the same?

25 A. I didn't know in that much detail what

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1 a Bates stamp is, but yes.

2 Q. So I'll represent to you your counsel
3 produced documents that use the ARS prefix, and a
4 document -- a page in those documents called ARS3.
5 And in that document, I'm happy to show it to you
6 if you would like to see it, but -- if you are not
7 familiar with it, but it's a document which
8 identifies, has a field called business name, that
9 I actually, what's on here or shows source.

10 MR. SCHEUERMAN: I have the documents
11 here.

12 MR. STERN: No, I'm handling the
13 deposition. You can't hand him documents in
14 the middle of my examination.

15 MR. SCHEUERMAN: Okay.

16 BY MR. STERN:

17 Q. But I have copied and pasted into --
18 under the section called business name the actual
19 portion of that document on ARS3 here. So I was
20 just using that document referred -- called
21 Healthcare Revenue Recovery Group, LLC, the
22 business name. I thought it would make sense for
23 purposes of the deposition when we are talking
24 about this because we are talking about names,
25 when we refer to the business name we are talking

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Exhibit 1

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1 about Healthcare Revenue Recovery Group, LLC. Are
2 you okay if we use that term business name as
3 meaning Healthcare Revenue Recovery Group, LLC?

4 A. Do you have the document that you
5 said --

6 Q. Yes.

7 MR. STERN: Mark this as D-2.

8 (Exhibit D-2, Document Bates-stamped
9 ARS1 through ARS12, marked for
10 identification, as of this date.)

11 MR. SCHEUERMAN: This has a different
12 Bates stamp number compared to the one -- I
13 have Bates stamp numbers on all of them. I
14 don't know if there's --

15 MR. STERN: The one that's
16 Bates-stamped including the account notes?

17 MR. SCHEUERMAN: Yeah.

18 MR. STERN: I don't know if they
19 were -- I see what happened.

20 MR. SCHEUERMAN: They are
21 Bates-stamped.

22 MR. STERN: I guess what happened is
23 when printing those pages that you produced
24 as the account notes were printed in
25 landscape mode and you put it on that way.

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1 When they printed out from mine as one PDF,
2 because we produced electronically as one
3 PDF, the Bates stamp on those pages of the
4 account notes did not come out. I have no
5 problem if you want -- if you want to use
6 that. I don't know if you have extra copies
7 we can print from that.

8 MR. SCHEUERMAN: This is the one I
9 produced. I can't -- I haven't gone through
10 and compared it.

11 MR. STERN: That's fine.

12 THE WITNESS: I'm okay to use this.

13 MR. STERN: Let's -- off the record.

14 (Discussion off the record.)

15 BY MR. STERN:

16 Q. So you have now in front of you D-2.
17 If you turn, you see at the bottom right the first
18 page says ARS01?

19 A. Yes, I see.

20 Q. If you go to page 03.

21 A. Yes.

22 Q. And you see there's numbered paragraph
23 1?

24 A. Yes.

25 Q. And it says business name?

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1 A. Yep.

2 Q. That's what was cut and pasted --
3 copied and pasted and put into what I marked as
4 D-1 --

5 A. Yes.

6 Q. -- under business name.

7 A. Yes, I see.

8 Q. While we are on ARS03, do you know what
9 ARS03 is?

10 A. It's a photocopy of something from the
11 State of New Jersey.

12 Q. Okay. To your knowledge, is the
13 business name which is shown on D-1, specifically
14 Healthcare Revenue Recovery Group, LLC, is that
15 the name of the entity which was collecting the
16 debt from the Levins?

17 A. Yes.

18 Q. To your knowledge, is that the legal
19 name of the entity?

20 MR. SCHEUERMAN: Objection to form.
21 Calls for legal conclusion. But you can
22 answer.

23 A. I believe it is.

24 Q. Do you have some understanding as to
25 what a limited liability company is?

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1 A. Yes.

2 Q. Are you a member of Healthcare Revenue
3 Recovery Group, LLC?

4 A. No.

5 Q. Do you know who the members are, member
6 or members?

7 A. No.

8 Q. Do you hold a position with Healthcare
9 Revenue Recovery Group, LLC?

10 A. Yes.

11 Q. What's your position?

12 A. President.

13 Q. How long have you held that position?

14 A. For approximately six years.

15 Q. Have you held any other positions with
16 Healthcare Revenue Recovery Group?

17 A. Yes.

18 Q. What other positions have you held?

19 A. I was vice-president, and prior to that
20 I was assistant -- I think I was director prior to
21 that.

22 Q. Have each of the positions you
23 described, each of them were full-time positions?

24 A. Yes.

25 Q. So you didn't -- at the time that you

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1 were president and vice-president and director, at
2 those times you were not -- you didn't have
3 full-time employment somewhere else; correct?

4 A. Yes.

5 Q. The earliest position you held was
6 director?

7 A. Manager. I was manager prior to
8 director.

9 Q. So manager was your first position
10 with --

11 A. Yes.

12 Q. -- Healthcare --

13 When did you become a manager?

14 A. I was hired as manager for a different
15 entity named IMBS that later became Healthcare
16 Revenue Recovery Group. And I was hired in 1996.

17 Q. How long were you a manager?

18 A. In the entirety of my career or when I
19 was with --

20 Q. The position of manager that you were
21 hired for in 1996, how long did you hold that
22 position?

23 A. I don't recall how many years it was.
24 It was -- I can't recall the dates that I was
25 promoted to director.

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1 Q. Okay. At some point you became
2 director?

3 A. Yes.

4 Q. You held that position -- do you recall
5 for about how long you held that position?

6 A. That was approximately two years.

7 Q. Then you were promoted to
8 vice-president?

9 A. Yes.

10 Q. And do you remember when you became
11 vice-president?

12 A. No. No. The years are kind of running
13 together. I have been with the company a long
14 time.

15 Q. And do you recall about how long you
16 were vice-president?

17 A. About nine years.

18 Q. Then you went from being vice-president
19 to becoming president?

20 A. Yes.

21 Q. What's your understanding of --
22 withdrawn.

23 In talking about when you were hired as
24 manager, you said you were hired by IMBS and at
25 some point it became HRRG?

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1 A. Yes.

2 Q. What's your understanding of what that
3 transition was? To give you a "for instance," to
4 be more clear about my question is, was it simply
5 a change of name? Was it a merger? Was it some
6 combination? What happened that it went from IMBS
7 to HRRG?

8 A. It was a name change that had more to
9 do with corporate structure than changing the
10 company name for identification purposes. There
11 were other parts of the billing and collection
12 operation that were part of IMBS that did not have
13 anything to do with the collection agency that we
14 had set out to establish. The name change was
15 associated with disassociating the collection
16 agency from the billing operations that were part
17 of IMBS.

18 Q. So did IMBS continue to exist handling
19 billing operations?

20 A. Yes, I believe so.

21 Q. And continuing under that name or a
22 different name?

23 A. Continuing under that name for a period
24 of time.

25 Q. So the collection services that were

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1 part of IMBS then got segregated out and was put
2 under the umbrella of HRRG; is that a fair
3 statement?

4 A. You are calling it an umbrella, I
5 wouldn't call it that under the name of HRRG,
6 Healthcare Revenue Recovery Group, LLC.

7 Q. Do you know who the member or members
8 are of Healthcare Revenue Recovery Group, LLC?

9 A. I don't know. No, I don't know.

10 Q. Do you know if any members are natural
11 persons or whether they are, like, a corporation
12 or another LLC -- withdrawn.

13 Is Healthcare Revenue Recovery Group,
14 LLC a subsidiary of another entity?

15 MR. SCHEUERMAN: I object. How is this
16 in any way related to the true name issue?

17 MR. STERN: I need the witness to leave
18 the room. Sir, please step out.

19 MR. SCHEUERMAN: Sorry, David.

20 THE WITNESS: That's okay.

21 (Witness leaves the room.)

22 MR. STERN: So as I read the
23 interrogatory answers is that, and my
24 investigation of these entities is the issue
25 is whether -- let me get the language

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1 exactly. Is ARS the name under which
2 Healthcare Revenue Recovery Group usually
3 transacts business. I need to have some
4 understanding of what the nature and scope of
5 that business is. There is reference in the
6 interrogatory answers to simply that it began
7 using this name from the start but it doesn't
8 say who began using that name. And my own
9 investigation suggests that there is a much
10 more elaborate corporate structure. This is
11 not -- an LLC appears there's an LLC which is
12 simply owned by one or a handful of
13 individuals. When I say "individuals" I mean
14 natural persons. And so, therefore, I have
15 to have an understanding of what that is
16 before I can be able to tell is this
17 something that's a name which usually
18 transacts business, I have to understand the
19 nature of the business.

20 MR. SCHEUERMAN: Judge Williams
21 specifically referenced the corporate
22 organizational number seven, and she said
23 that was too broad.

24 THE WITNESS: No, she didn't say that.

25 MR. SCHEUERMAN: She did. And she said

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1 you can ask about -- corporate organization
2 is too broad. Having -- asking about a
3 subsidiary -- why don't you ask him what's
4 ARS? When did they start using ARS? You
5 don't have to get into subsidiaries. It's
6 far afield from the true name issue. Meaning
7 if you want to ask him what's ARS, how is it
8 different than HRRG, those are the
9 specifics --

10 MR. STERN: Which number are you
11 referring to?

12 MR. SCHEUERMAN: Number seven. She
13 said the corporate --

14 MR. STERN: She said the corporate
15 organizational management structure of HRRG
16 was fine.

17 MR. SCHEUERMAN: Was too broad.

18 MR. STERN: She didn't say that. When
19 it went to management and oversight
20 responsibilities that that was too broad.
21 Her point was to contrast, part of that was
22 fine and the part of it was not.

23 MR. SCHEUERMAN: She said the
24 management structure was fine and the rest
25 was too broad. So I'm going to object to

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1 that. That's beyond the scope of the order.

2 I don't understand. I'm not going to
3 tell you what to do, but if you want to ask
4 what's ARS, how is it different than HRRG,
5 what's the distinction, is this a company,
6 that's all fair game. But you're asking
7 about subsidiaries which --

8 MR. STERN: I didn't ask about
9 subsidiaries. I'm trying to find out what
10 the business is.

11 MR. SCHEUERMAN: It's not relevant --

12 MR. STERN: It is relevant.

13 MR. SCHEUERMAN: -- to the true name
14 issue.

15 MR. STERN: How is it not relevant?

16 MR. SCHEUERMAN: Whether there's a
17 parent corporation or it's a subsidiary, how
18 is that relevant to the true name issue?

19 MR. STERN: It's for purpose of
20 defining what is the nature of its business
21 so that I can determine -- then I can proceed
22 to find out what name it usually transacts
23 business -- that business under.

24 MR. SCHEUERMAN: A subsidiary? HRRG
25 is --

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1 MR. STERN: What subsidiary?

2 MR. SCHEUERMAN: You are asking about
3 is it a subsidiary. That's what you were
4 asking.

5 MR. STERN: That's all --

6 MR. SCHEUERMAN: It's beyond the scope.
7 She specifically referenced corporate
8 organization. So I suggest if you want to
9 call her let's make a list, let's add this to
10 the list. There may be other issues, let's
11 make one call rather than waiting. If you
12 want to agree on an issue that we can bring
13 to her that's fine, let's put it aside and
14 move on. We will do one call with the
15 objections.

16 MR. STERN: My view is we will just --
17 the information from -- that's on their
18 website that explains all that information,
19 we will present that in summary judgment and
20 you won't have the ability to respond to it
21 because you are not letting me inquire of
22 this witness.

23 MR. SCHEUERMAN: It's beyond the scope
24 of the judge's order, whether a parent
25 company owned HRRG. I don't see how --

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1 MR. STERN: It's for purposes of
2 identifying what that company is and what
3 business they do.

4 MR. SCHEUERMAN: That's not relevant.
5 It's beyond the scope of the order.

6 MR. STERN: It helps to define what
7 business HRRG does.

8 MR. SCHEUERMAN: It's a debt collector.
9 We all know that. It's beyond the scope.
10 That's my stand, so let's move on. We can
11 call the judge -- if you want to call her
12 now, I say we wait, there may be other
13 issues.

14 MR. STERN: Can you mark the last
15 question that he objected to, read that back?

16 (Record read.)

17 MR. STERN: So if you can tell me --
18 there's been some discussion -- obviously
19 mark that last question.

20 (Witness returns.)

21 BY MR. STERN:

22 Q. Did Healthcare Revenue Recovery Group,
23 LLC exist prior to the separation of the
24 collection activity from IMBS?

25 A. Yes.

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1 Q. And what kind of business did
2 Healthcare Revenue Recovery Group do prior to the
3 collection activity from IMBS coming into
4 Healthcare Revenue Recovery Group?

5 A. Start the question again, please.

6 Q. Let me ask you this, we started off in
7 D-1, which is in front of you, names. We got so
8 far the first item, the business name. We have
9 talked about that name. Is there any reason we
10 can't refer to that when we are stating that name,
11 just refer to it as HRRG? Is that --

12 A. No, there's no reason you couldn't
13 refer to it as HRRG.

14 Q. For purposes of this, if for some
15 reason either in context or in your answering if
16 HRRG means something to you other than Healthcare
17 Revenue Recovery Group, LLC, you'll let me know;
18 but otherwise, we are going to assume when we are
19 saying HRRG that means or that's a substitute for
20 Healthcare Revenue Recovery Group, LLC. Okay?

21 A. Okay.

22 Q. Let's get back to it. So I don't want
23 to misstate your testimony. As I understood your
24 testimony so far is that IMBS included debt
25 collection at one point in time. And that there

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1 came a point in time where the collection
2 activities of IMBS was transferred to or became
3 part of what HRRG. Is that -- am I misstating it?

4 A. Yes. There were multiple functions
5 happening under IMBS, including both billing and
6 collections. There was a desire by the company to
7 separate those functions into their own individual
8 business units, one that handled billing and one
9 that handled collections. So HRRG was established
10 to house the collection activity that had once
11 been handled -- that had once been part of what
12 was handled by IMBS.

13 Q. Okay. And you also testified that
14 prior to the housing of the collection activity,
15 which had formerly been under IMBS, that HRRG was
16 engaged in some form of business. I think you
17 said --

18 A. Just establishment of the business for
19 getting a corporate entity established, an LLC
20 established. So it wasn't -- there was no
21 activity happening prior to the use of the name
22 for the collection operations.

23 Q. Do you know when HRRG was formed?

24 A. I believe it was 2004.

25 Q. And beginning in -- at some point -- it

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1 was formed in 2004. At some point either in later
2 2004 or thereafter the collection activity of IMBS
3 was taken from IMBS and housed in HRRG; correct?

4 A. I would say transitioned is probably a
5 better way of putting it.

6 Q. I'm trying to use housed -- you used
7 housed before. I was trying to use the same word.
8 So transitioned; right?

9 A. Yes.

10 Q. Has the collection activity of any
11 other entity been transitioned into HRRG?

12 A. No.

13 Q. With respect to the Levins' debt, how
14 did it come about that that debt was placed with
15 HRRG?

16 A. After the Levins' account went through
17 an active billing process with HCFS billing
18 company, the Levins' account was part of a
19 selection process that took place based on the
20 account's age to be placed in collections in an
21 electronic data file with accounts that were
22 placed with Healthcare Revenue Recovery, HRRG.

23 Q. You mentioned HCFS.

24 A. Healthcare Financial Services.

25 Q. Is that a -- the Healthcare Financial

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1 Services a generic term or that's a specific
2 entity?

3 A. It's a specific entity.

4 Q. Is that an entity that engages in
5 medical billing?

6 A. Yes.

7 Q. Is there any relationship or historical
8 relationship between IMBS and Healthcare Financial
9 Services?

10 A. Yes.

11 Q. What is that relationship?

12 A. I think at one time Healthcare
13 Financial Services was the managing member for
14 IMBS or HRRG, the LLC. I think they were either
15 one or the managing member. I'm not sure if the
16 LLC had multiple managing members when HRRG was
17 first formed.

18 Q. Does HRRG only collect
19 healthcare-related debts?

20 A. Yes.

21 Q. And does HRRG only receive placement of
22 debts from billing companies?

23 A. Yes.

24 Q. To your knowledge, is there any -- are
25 there any billing companies that have no

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1 affiliation with HRRG who place debts with HRRG?

2 MR. SCHEUERMAN: I object. How is this
3 relevant to the issues again?

4 MR. STERN: I'm trying to define what
5 the business is and with whom they transact
6 business.

7 MR. SCHEUERMAN: It's beyond the scope.
8 Objection.

9 MR. STERN: With whom they transact
10 business is not beyond the scope.

11 MR. SCHEUERMAN: With whom, what? With
12 whom, who?

13 MR. STERN: With whom HRRG transacts
14 business.

15 MR. SCHEUERMAN: For what reason?

16 MR. STERN: I don't know, I'm trying to
17 find out.

18 MR. SCHEUERMAN: There's got to be a
19 reason. What's the proffer for that?

20 MR. STERN: The third circuit said,
21 quote, "The name under which it usually
22 transacts business."

23 MR. SCHEUERMAN: Okay.

24 Mr. STERN: I'm trying to find out what
25 business it transacts.

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1 MR. SCHEUERMAN: Who HRRG usually
2 transacts business with, is that what you are
3 trying to get at?

4 MR. STERN: That's one of the things
5 I'm trying to find out, yes. And also
6 defining what its business is.

7 MR. SCHEUERMAN: What HRRG's business
8 is?

9 MR. STERN: Yes. Because it seems that
10 there's a deal.

11 MR. SCHEUERMAN: Ask him that.

12 MR. STERN: I'm asking the questions
13 the way I'm asking. That doesn't make the
14 questions not relevant or outside the scope
15 of discovery.

16 MR. SCHEUERMAN: The proffer of this
17 line is?

18 MR. STERN: I'm going to have you stop.
19 Mr. Friedlander, I'm going to ask you to
20 leave the room if we are going to discuss the
21 substance of the questions or the testimony.

22 (Witness leaves the room.)

23 MR. SCHEUERMAN: So I'm clear, the
24 proffer is you are trying to figure out with
25 whom HRRG does business to ascertain whether

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1 they typically use ARS as an acronym; is that
2 what I'm --

3 MR. STERN: That's what we are going to
4 get to, yeah.

5 MR. SCHEUERMAN: Okay, that's fine.
6 Why don't you just ask him that, who they
7 usually transact business with?

8 MR. STERN: I have no problem doing
9 that. I assumed if I was going to ask that
10 question you were going to tell me that's
11 confidential, you know, who their customers
12 are. You want me to ask him, I'll ask him
13 that.

14 MR. SCHEUERMAN: What are you trying to
15 get at, whether they use it with their
16 clients -- whether they use ARS with their
17 clients?

18 MR. STERN: I want to find out if they
19 use ARS with everybody.

20 MR. SCHEUERMAN: Why don't you just ask
21 him that? To me it seems like you are trying
22 to get --

23 MR. STERN: I'm trying to get the lay
24 of the land first.

25 MR. SCHEUERMAN: It seems you are

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1 trying to inquire as to things that are not
2 relevant to corporate structure.

3 MR. STERN: This is not corporate
4 structure. This is asking him --

5 MR. SCHEUERMAN: You have been on this
6 line of questioning for almost 45 minutes and
7 we haven't gotten into anything that's
8 germane to the issues.

9 MR. STERN: I disagree. We have gotten
10 a lot of good information so far.

11 (Whereupon there was a recess in the
12 proceedings from 10:59 to 11:07 a.m.)

13 BY MR. STERN:

14 Q. With whom does HRRG -- is there a term
15 that you use to describe as a group the entity or
16 entities who place accounts with HRRG?

17 A. Is there a term? I'm --

18 Q. In my experience with other debt
19 collectors, they refer to the entities that refer
20 the accounts as customers or clients.

21 A. Clients we would refer to.

22 Q. As clients?

23 A. Yeah, as clients.

24 Q. Who are HRRG's clients?

25 A. The clients are the billing customers

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1 of Healthcare Financial Services, HCFS; and what
2 they call OSB, outsource billed clients in
3 addition to those that are owned.

4 Q. So I understand, the billing customers
5 of HCFS, are those healthcare providers?

6 A. Yes.

7 Q. So it is your understanding that
8 healthcare providers use the services of HCFS for
9 billing and then collections if need be?

10 A. Yes.

11 Q. HCFS, what you referred to as the OSB
12 clients, are those also billing entities for
13 healthcare providers?

14 A. They are physician groups providing
15 services to patients with billing services
16 provided by Healthcare Financial Services, HCFS,
17 but not necessarily owned by HCFS's parent.

18 MR. SCHEUERMAN: Do you have a new
19 sticker? This is the new D-2.

20 BY MR. STERN:

21 Q. Does HRRG market itself to potential
22 new clients?

23 A. No.

24 Q. I'm not trying to put words in your
25 mouth. I'm trying to put a description on this.

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1 Is it fair to say that HRRG, sort of, does
2 collection work, and it's captive in a sense that
3 it does the work for -- within a corporate
4 structure of related companies?

5 A. Yes.

6 Q. And that there is some -- would it be
7 fair to say that the marketing of HRRG services is
8 really encompassed within the billing services for
9 which HCFS seeks to obtain their clients?

10 MR. SCHEUERMAN: Objection to form.

11 You are misstating what his testimony was.

12 MR. STERN: He can certainly correct me
13 if I'm wrong.

14 MR. SCHEUERMAN: You just misstated.
15 He said --

16 MR. STERN: He can correct me if it's
17 wrong. It's not for counsel to tell me if I
18 misstated the testimony.

19 BY MR. STERN:

20 Q. Certainly I'll tell you, Mr.
21 Friedlander, I'm not trying to put words in your
22 mouth. I'm trying to understand and repeat back
23 to at least have you confirm so I know I
24 understand what your testimony is. So if I'm
25 misstating it, please, that's not my intent to

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1 either overstate or understate something you said.

2 MR. SCHEUERMAN: Objection to form.

3 Misstating the client's testimony.

4 MR. STERN: Mark that objection,
5 please.

6 BY MR. STERN:

7 Q. I'm trying to understand the business
8 model under which HRRG operates. And so maybe
9 drawing some inferences from your testimony I want
10 to clarify it so I can move on.

11 HRRG is one business entity among other
12 business entities which offer services to
13 healthcare providers for billing and collections;
14 is that a fair statement?

15 A. I'm not sure.

16 Q. Okay. Well, so I understand it, HRRG
17 does not market itself to get new accounts, but
18 instead gets assigned -- accounts get placed by an
19 entity that, from your testimony as I understand
20 it, is a related entity in some fashion, HCFS?

21 A. Yes.

22 Q. And that I know the term "affiliate"
23 can be a somewhat ambiguous term, but there is
24 some affiliation between HRRG and HCFS, whether
25 it's by way of, you know, common ownership or

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1 subsidiary or parent or sister companies, but
2 there's a relationship. And they work together in
3 providing services to the healthcare providers?

4 A. Yes.

5 Q. In HRRG's attempts to collect debts it
6 sends letters to consumers; correct?

7 A. Yes.

8 Q. And in HRRG's attempts to collect debts
9 it places calls to consumers; correct?

10 A. Yes.

11 Q. Does HRRG use the services of outside
12 vendors for either mailing letters to consumers or
13 placing phone calls to consumers?

14 A. Yes.

15 Q. Does it use a mailing vendor for
16 letters?

17 A. Yes.

18 Q. Having handled cases like this and
19 having some understanding of what the relationship
20 is, I'm going to try and get through it quickly.
21 So if I'm misstating something that's -- I'm
22 drawing from my general knowledge to see if it
23 applies with HRRG. That's what these next
24 questions are going to relate to.

25 Is the mailing vendor provided with

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1 templates of form letters that HRRG uses?

2 A. Yes.

3 Q. And is the mail vendor then provided
4 with data to merge into those templates as and
5 when HRRG decides to send letters to consumers?

6 A. Yes.

7 Q. That mail vendor is then responsible
8 for printing out the merged document, the form
9 letter, putting it in an envelope and mailing it
10 out; correct?

11 A. Yes.

12 Q. And does the mail vendor provide
13 reports back to HRRG which identifies, or the date
14 in which forms were used to send letters?

15 A. Yes.

16 Q. Are those reports in an electronic form
17 that then get inputted into the account notes?

18 A. I don't know that I would call them
19 reports.

20 Q. Okay.

21 A. But --

22 Q. HRRG receives electronic data from the
23 mail vendor; yes?

24 A. Yes.

25 Q. Which provides information about the

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1 mailing of the letters that HRRG has requested the
2 mail vendor to mail?

3 A. Yes.

4 Q. That electronic data, or some of that
5 electronic data gets placed into the account notes
6 for the accounts on which letters were mailed;
7 correct?

8 A. Yes.

9 Q. Does the mail vendor -- withdrawn.
10 Is the return address used for those
11 letters an address which goes back to the mail
12 vendor or which goes back to HRRG?

13 A. Can you state a time frame, because the
14 process has changed over time?

15 Q. Okay.

16 A. So there was a time when it may have
17 been handled differently from the way it's handled
18 now.

19 Q. All right. Let's talk about the date
20 of -- I understand that there was a letter sent
21 dated November 30, 2015 to the Levins, so we are
22 talking about that. I don't know how broad a
23 period you need, whether year or season or what.

24 A. Are you reviewing -- did you get that
25 information from a document that you are --

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1 Q. Yes. In fact --

2 A. -- referring to as one of the --

3 Q. -- in D-2.

4 MR. SCHEUERMAN: The letter -- it's not
5 D-2.

6 BY MR. STERN:

7 Q. It's page 4 in D-2, ARS4.

8 A. Yes, I see that.

9 Q. That letter is dated November 30, 2015?

10 A. Yes.

11 Q. So that's what I'm referring to.

12 A. Okay. Now, can you restate the
13 question?

14 Q. Sure. Actually withdraw, and maybe we
15 can get back to it.

16 Let's talk about this letter. Is there
17 anything in this letter that tells you -- that
18 informs you as to what -- identifies which
19 template was used for creating the letter?

20 A. Yes.

21 Q. Where is that?

22 A. In the lower right corner of the
23 letter.

24 Q. If you can refer to -- is there a
25 specific text you can refer to?

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1 A. It's barely visible. It says A1, I
2 believe.

3 Q. Okay.

4 A. But it's hard to read because it's been
5 reduced in size from what's normal.

6 Q. All right. I do see -- and for
7 purposes of the record there's, sort of, like a
8 barcode beneath the address that's in the lower
9 right corner, and then below that and to the right
10 there it says A1.

11 A. Looks like it says A1, yes.

12 Q. Looks like that to me as well.

13 What does A1 tell you about the
14 template?

15 A. A1 would be one of the letter types
16 used by ARS.

17 Q. Okay. And the return address that
18 would appear from the outside of the envelope, is
19 that the address that appears in the upper left
20 corner of ARS04?

21 A. Can you read the address you are
22 referring to, please?

23 Q. Sure. It looks like it says PO Box
24 459079, Sunrise, Florida.

25 A. Yes, that's -- that is the return

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1 address.

2 Q. Okay.

3 MR. SCHEUERMAN: Note my objection to
4 form. That wasn't the full return address.

5 MR. STERN: Okay.

6 BY MR. STERN:

7 Q. So that's the address that would have
8 appeared from the outside of the envelope;
9 correct?

10 A. Yes.

11 Q. And is that address an address for HRRG
12 or is it an address for the mail vendor?

13 A. That's an address that would be for
14 ARS.

15 Q. For ARS?

16 A. Yes.

17 Q. We have not talked about ARS yet, but
18 understood. I understand your answer. We will
19 dovetail back to that.

20 Looking at ARS04, are you able to tell
21 from whom the letter was sent? I said that
22 awkwardly. Who sent the letter?

23 A. The print mail service. They are
24 called Nordis, N-O-R-D-I-S.

25 Q. That's the vendor?

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1 A. Yes.

2 Q. How long have they been the mail
3 vendor?

4 A. I believe since 1997.

5 Q. So it's not -- it's not like there's a
6 possibility there's another vendor involved?

7 A. No.

8 Q. So you said the letter is sent from
9 ARS; correct?

10 A. I don't recall saying that.

11 Q. Okay. The letter was physically sent
12 by Nordis; correct?

13 A. Yes.

14 Q. Nordis printed the letter, put it in an
15 envelope and mailed it; correct?

16 A. Yes.

17 Q. Nordis did that because it received, in
18 some form, instructions to merge data into the
19 template A1 and mail this letter?

20 A. Yes.

21 Q. Does Nordis have a contract governing
22 its relationship with regard to sending these
23 letters?

24 A. Yes.

25 Q. With whom does Nordis contract?

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1 A. I'm not sure. I believe its contract
2 is between HRRG and Nordis.

3 Q. Is the contract between ARS and Nordis?

4 A. No.

5 Q. Refer -- I know it's somewhat small,
6 the first line in the body of the letter. It's
7 actually the first sentence. I'll read it. It
8 says, "The healthcare creditors," and it has the
9 letter S in parenthesis, "shown below hired ARS
10 Account Resolution Services," then an open paren,
11 ARS, close paren, "to collect the balance due."

12 Do you see that?

13 A. Yes.

14 Q. Who is ARS Account Resolution Services?

15 A. ARS is a business unit, a division of
16 HRRG.

17 Q. I want to be specific here because the
18 letters ARS in parenthesis right after ARS Account
19 Resolution Services --

20 A. Yes.

21 Q. -- signals that the letters "ARS" are
22 going to be used in this letter to refer to ARS
23 Account Resolution Services; correct?

24 MR. SCHEUERMAN: You are talking about
25 the first sentence in ARS4, to clarify?

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1 MR. STERN: Who are you clarifying it
2 for?

3 MR. SCHEUERMAN: To me.

4 MR. STERN: If he doesn't understand
5 the question he can ask me. It's improper
6 for you to be signaling to the witness
7 there's something he should be cautious about
8 my question.

9 MR. SCHEUERMAN: It wasn't any type of
10 signal.

11 A. The use of ARS in parenthesis in that
12 first line of the first sentence in this letter is
13 just to clarify in the remainder of the text of
14 the letter that we may use just the initials ARS
15 to mean ARS Account Resolution Services.

16 Q. Right.

17 A. In much the same way as when you say,
18 you are referring to HRRG rather than saying
19 Healthcare Revenue Recovery Group, you would just
20 use HRRG.

21 Q. I understand. I think there's a subtle
22 difference that we don't need to get into right
23 now between -- even though it's subtle it may be
24 very significant between the two examples. But
25 yes, I agree that it's a signal that these three

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1 letters are going to refer to the longer version,
2 right; for whatever reason, convenience, save
3 space, right, it doesn't matter?

4 A. Yeah, it's like a short form.

5 Q. Exactly. It's a short form. Agreed.
6 And I agree to that extent that your example of
7 HRRG is correct that it's a short form of doing
8 it. I understand that's why it's there.

9 It's probably a good time to go back to
10 D-1 now. Because the second item on D-1 is
11 alternate name; do you see that?

12 A. Yes.

13 Q. And do you see that I had put there ARS
14 Account Resolution Services; do you see that?

15 A. Yes.

16 Q. And if you want in D-2 you can go back
17 to page 3, you'll see at paragraph 3 on page 3 it
18 refers to alternate name and says ARS Account
19 Resolution Services; do you see that?

20 A. Yes.

21 Q. And I have copied and pasted that page
22 3 paragraph 3 onto D-1; do you see that?

23 A. Yes.

24 Q. Do you have an understanding of what's
25 meant by an alternate name in the context of

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1 ARS03, the document -- that document?

2 A. I'm not sure I do.

3 Q. If I were to say to you that ARS03 is a
4 document that is filed with the State of New
5 Jersey that is a public record that identifies
6 that the name ARS Account Resolution Services is a
7 name that will be used to identify Healthcare
8 Revenue Recovery Group, LLC, does that refresh
9 your recollection at all in terms of what --

10 MR. SCHEUERMAN: Object to form.
11 Counsel is testifying as to the document, not
12 pointing to any facts in the record to
13 support what he just said.

14 MR. STERN: Object to the form, that's
15 fine.

16 A. The question again that you are asking
17 is?

18 Q. I'm trying to see if I can refresh your
19 recollection with information about -- let me say
20 this, my understanding from materials that your
21 counsel has submitted to in this case --

22 MR. SCHEUERMAN: What materials?

23 MR. STERN: Excuse me?

24 MR. SCHEUERMAN: Objection to form.

25 He's misstating evidence.

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Exhibit 1

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1 BY MR. STERN:

2 Q. That the document which is ARS03, which
3 is contained in D-2, is a certificate filed with
4 the State of New Jersey which identifies an
5 alternate name for Healthcare Revenue Recovery
6 Group, LLC, and that alternate name is ARS Account
7 Resolution Services.

8 Having said that, is that -- does that
9 refresh your recollection as to the document
10 ARS03?

11 A. Can you go back to -- can we reread
12 what the initial question was?

13 MR. SCHEUERMAN: He rephrased it after
14 the initial question.

15 BY MR. STERN:

16 Q. Let me tell you where I'm at.

17 A. I thought we were talking --

18 MR. SCHEUERMAN: I objected and he
19 rephrased.

20 BY MR. STERN:

21 Q. I want to clarify the question.

22 A. I thought we were talking about do I
23 understand what an alternate name is.

24 Q. Maybe -- I apologize if I got off on a
25 tangent instead of dealing with that. Let's talk

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1 about that.

2 Can you answer that? Do you have an
3 understanding of what an alternate name is in the
4 context of a document being filed to register an
5 alternate name?

6 A. And I think I answered I'm not sure.
7 I'm still not sure.

8 Q. Okay. Then in terms of -- let's get to
9 D-1. Let's get to the third thing that I have
10 listed on there, the third and final thing. I say
11 abbreviation of alternate name and I have there
12 ARS. And I can point you to -- I haven't
13 identified the document yet, but I can point you
14 to responses to interrogatories. I guess it would
15 probably make sense to do that.

16 (Exhibit D-3, Responses to
17 interrogatories, marked for identification,
18 as of this date.)

19 BY MR. STERN:

20 Q. Take a moment and page through, and I'm
21 going to draw your attention to the last page of
22 D-3.

23 MR. SCHEUERMAN: Take your time and
24 read the document. Let us know when you are
25 ready.

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1 A. Yes. Okay.

2 Q. All right. The last page, go to the
3 last page.

4 A. Yes.

5 Q. Is that your signature that appears on
6 the last page?

7 A. Yes.

8 Q. When was the first time that you saw
9 the document marked D-3?

10 A. I don't recall the first time I saw it.

11 Q. Did you understand that D-3 was a
12 document that was prepared by your counsel?

13 MR. SCHEUERMAN: Objection. Form.

14 A. Yes.

15 Q. Did you review the document which is
16 D-3 in preparation for the deposition today?

17 A. I believe I reviewed parts of it.

18 Q. Before you signed D-3, did you review
19 the entire document?

20 A. Yes.

21 Q. Did you understand everything that was
22 in D-3 or were you -- to the extent you didn't
23 understand it, did you get -- were you satisfied
24 with -- withdrawn.

25 Did you understand everything that you

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1 read in D-3 before you signed it?

2 A. Yes.

3 Q. Let's move back a little bit. What's
4 your highest level of education?

5 A. Bachelor's in business administration.

6 Q. From where?

7 A. From Boston University, School of
8 Management.

9 Q. Prior to your being hired by IMBS, had
10 you worked in the debt collection field?

11 A. Yes.

12 Q. When you were hired by IMBS, were you
13 working in debt collection or on the billing side?

14 A. Debt collection.

15 Q. What was your experience with debt
16 collection prior to being hired by IMBS?

17 A. I had worked at a company called Exeter
18 Management on debt collection for multiple clients
19 of theirs.

20 Q. Were those medical debts or other types
21 of debts?

22 A. Both.

23 Q. Was the debt collection consumer debt
24 collection when you worked at Exeter or was it
25 mixed, or was it not?

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1 A. For the most part it was not consumer
2 debt. It was -- yeah, it was different types of
3 debt but commercial debt.

4 Q. Commercial debt?

5 A. Primarily.

6 Q. Did you have experience in debt
7 collecting prior to working for Exeter?

8 A. No.

9 Q. Can you tell me from when you
10 graduated -- did you attend Boston University
11 full-time?

12 A. Yes.

13 Q. From the time you graduated till the
14 time you started at Exeter, did you have other
15 full-time employment?

16 A. No.

17 Q. So it was basically once you graduated
18 your --

19 A. I actually worked part-time at Exeter
20 while I was attending school as a full-time
21 student.

22 Q. I was asking, given the Exeter name,
23 was it in the Massachusetts area?

24 A. Yes. Why, have you heard of it?

25 Q. No. Exeter is a city in Massachusetts.

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Exhibit 1

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1 Phillips Academy has an Exeter campus. The prep
2 school was there, so I assumed that was a New
3 Englander, certainly Massachusetts-based company.

4 When you worked at Exeter, did you
5 reside in Massachusetts or New England?

6 A. Yes.

7 Q. And was IMBS located in Florida?

8 A. Yes.

9 Q. When you took the job did you move to
10 Florida?

11 A. I moved to Florida before I took the
12 job?

13 Q. Have you taken any courses at an
14 educational institution subsequent to graduating
15 from Boston University?

16 A. No.

17 Q. Have you taken any seminars offered by
18 the debt collection industry?

19 A. Yes.

20 Q. And you have done that with some
21 regularity over the course of your career?

22 A. Yes.

23 Q. What I -- when I said "some
24 regularity," do you attend a seminar or conference
25 at least once a year?

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1 A. Yes.

2 Q. Does HRRG have a general counsel or
3 in-house counsel?

4 A. No.

5 Q. Is there a general counsel within any
6 of the related entities that provides in-house
7 legal services for HRRG?

8 A. Yes.

9 Q. Who manages litigations brought under
10 the Fair Debt Collection Act against HRRG?

11 MR. SCHEUERMAN: Objection to form.

12 I'm sorry, how is that related? Who manages
13 what?

14 MR. STERN: I'm trying to find out to
15 make sure I know -- we have -- if there's
16 some other representative we need to talk to.
17 I want to find out basically who manages
18 litigation control.

19 MR. SCHEUERMAN: At HRRG?

20 MR. STERN: Either at HRRG or for HRRG
21 within the group of entities.

22 MR. SCHEUERMAN: What do you mean by
23 "manages"?

24 MR. STERN: Typically there's -- a
25 corporate counsel will have oversight or will

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1 be basically the direct liaison with outside
2 counsel in litigation.

3 MR. SCHEUERMAN: What's -- the proffer
4 for this is what?

5 MR. STERN: If you want a proffer I can
6 do it without the witness being present.

7 MR. SCHEUERMAN: Can you leave?

8 (Witness leaves the room.)

9 MR. SCHEUERMAN: What's the proffer?

10 MR. STERN: He's being produced as?

11 MR. SCHEUERMAN: A 30(b)(6) witness and
12 individual. What's the proffer?

13 MR. STERN: Right. I'm just confirming
14 I was quite frankly expecting him to say he's
15 the one in charge, or you know there's
16 in-house counsel for, you know, HCFS who
17 manages that. That's all I wanted to know.

18 MR. SCHEUERMAN: Who manages what?

19 MR. STERN: Who manages litigation.

20 MR. SCHEUERMAN: Managing this
21 litigation or what litigation in particular?

22 MR. STERN: Just the corporate
23 responsibilities, how the responsibilities
24 are divvied out so I have an understanding.

25 MR. SCHEUERMAN: I think someone -- if

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1 you want to ask him if there's someone
2 managing this litigation for HRRG that's
3 fine, but I'm going to object to someone in
4 general who is managing some other
5 litigation. That's not relevant to this
6 case.

7 MR. STERN: I don't know if it's not
8 relevant to this case.

9 MR. SCHEUERMAN: You can ask him.

10 MR. STERN: I don't know how many other
11 times they have been -- the same claim that's
12 raised here has been raised by others.

13 MR. SCHEUERMAN: Why don't you ask him
14 that?

15 MR. STERN: You say why don't I ask
16 him, you don't get to control how I ask the
17 questions. I don't have to get to the
18 end-of-the-line question and make me have to
19 ask that first before I can lay the
20 foundation for that.

21 MR. SCHEUERMAN: I'm going to object.
22 If you are asking him who is managing
23 litigation in general not involved with this
24 case I object. If you are asking if someone
25 is managing this litigation --

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1 MR. STERN: Okay.

2 MR. SCHEUERMAN: -- then that's a fair
3 question.

4 MR. STERN: When I said okay, I
5 understand your position. I'm not assenting
6 to it.

7 MR. SCHEUERMAN: I understand.

8 BY MR. STERN:

9 Q. We have been referring to HRRG and HCFS
10 as being related entities. Is there a name that
11 you would use that would describe the -- well,
12 before I do that.

13 Are there other entities that are
14 related to HRRG and HCFS in the provision of
15 billing and collection services to healthcare
16 providers?

17 MR. SCHEUERMAN: I'm going to object.
18 I mean, it's the same -- basically the same
19 question you asked before, is there a
20 subsidiary. I don't see how any of that is
21 relevant in connection with the discovery
22 order.

23 A. So answering --

24 MR. SCHEUERMAN: I object based on that
25 order, the limitation of discovery. If you

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1 want to mark that we can talk to the judge.

2 MR. STERN: Mark that.

3 BY MR. STERN:

4 Q. What is TeamHealth?

5 MR. SCHEUERMAN: Again, objection to
6 form. Same objection. Not a form objection.
7 It's objection based on this order.

8 Is there a proffer for how it's related
9 to how the business typically transacts
10 business or is ARS a commonly used acronym?

11 MR. STERN: Mr. Friedlander, can you
12 please step out.

13 (Witness leaves the room.)

14 MR. SCHEUERMAN: That question is
15 relating to organization, which the judge
16 specifically said was too broad.

17 MR. STERN: It's not true, that's not
18 what she said. I'm not going to argue with
19 you over what she said. She did not say
20 that.

21 But I have information that suggests
22 that HRRG has held itself out to being a
23 division of an entity called TeamHealth. As
24 a division of, I don't understand what that
25 means when he says it's a separate entity.

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1 I'm trying to find out so I understand what
2 its business is.

3 MR. SCHEUERMAN: That hasn't been
4 produced in discovery. What are you
5 referring to?

6 MR. STERN: I'm referring to some of my
7 own investigation.

8 MR. SCHEUERMAN: Okay. It's not
9 related.

10 MR. STERN: It doesn't matter it's not
11 produced in discovery.

12 MR. SCHEUERMAN: That's goes to the
13 organization of the company, and I think it's
14 beyond the scope of the discovery order. If
15 you want to mark that one we can raise that
16 with the judge as well.

17 Can I bring him back in?

18 MR. STERN: Sure.

19 (Witness returns.)

20 BY MR. STERN:

21 Q. Is one of HRRG vendors, I don't know if
22 it's pronounced Genesis or Gensis?

23 A. Genesis. Yes.

24 Q. What services does Genesis provide?

25 A. Genesis, they actually took over a

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1 vendor we used for their speech analytic system
2 called Utopi (ph). Genesis purchased Utopi. We
3 use speech analytic software they used to call
4 Speech Minor. Genesis re-branded it, but that's
5 what we use.

6 Q. And how is speech analytics used in the
7 debt collection activities of --

8 A. We use it to analyze our recorded
9 conversations with consumers. And it categorizes
10 the conversations into topics.

11 Q. Is there a contract with Genesis for
12 its services?

13 A. Yes.

14 Q. And who are the parties to that
15 contract?

16 A. Genesis and HRRG.

17 Q. And in that contract does it refer to
18 HRRG as ARS?

19 A. The contract covers ARS in addition to
20 HRRG.

21 Q. So let's go back to D-1 for a moment,
22 which was the page with the different names on it.
23 I want to be clear so there's no misunderstanding.
24 We have on that page the alternate name, which
25 comes from that certificate, 03 that's on there,

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1 which is ARS Account Resolution Services?

2 A. Yes.

3 Q. When we refer to -- when you are
4 referring to ARS, that's just a shortened version
5 of the alternate name; correct?

6 A. Yes.

7 Q. And that alternate name is a name which
8 HRRG uses to identify itself; correct?

9 MR. SCHEUERMAN: I'm sorry, objection
10 to form. Ambiguous. You can answer.

11 A. No, I don't think that's correct.

12 Q. Does HRRG use the alternate name?

13 MR. SCHEUERMAN: I'm going to object.
14 There's alternate names listed twice. One
15 for -- if you want him to step out, I think
16 the questions are improper.

17 MR. STERN: Have him step out.

18 (Witness leaves the room.)

19 MR. SCHEUERMAN: First of all, D-1 is
20 not in evidence, as I said before; it's your
21 document. But the second item it says
22 alternate name and it says ARS Account
23 Resolution Services. The one at the bottom
24 also says alternate name ARS. So when you
25 say "alternate name," I don't think he --

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1 MR. STERN: It doesn't say alternate
2 name.

3 MR. SCHEUERMAN: It does. It says it
4 under Account Resolution Services in number
5 three. And that's referring to the business
6 formation document, which says alternate name
7 Account Resolution Services. And then at the
8 bottom of your self-serving document it says
9 abbreviation ARS and it says alternative
10 name. It says abbreviation of alternative
11 name.

12 But your question was confusing because
13 I don't think he knew which alternate name
14 you're talking about. I didn't know what you
15 are talking about.

16 MR. STERN: You're saying there's more
17 than one alternate name on D-1?

18 MR. SCHEUERMAN: No. You are using
19 alternate name interchangeably. And it's
20 referring to ARS and ARS Account Resolution
21 Services.

22 MR. STERN: No, it doesn't.

23 MR. SCHEUERMAN: It's a form objection.
24 And he can answer. I'm not telling him not
25 to answer. But based on how you were saying

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1 the question it was confusing.

2 MR. STERN: All D-1 does is take the
3 information that you have given me and put it
4 into -- on one piece of paper. Let me
5 finish -- on one piece of paper. The
6 business name is what the business name is
7 provided for in ARS03, which you provided to
8 me. The alternate name is ARS Account
9 Resolution Services, which is the alternate
10 name that appears on ARS03 which you provided
11 to me.

12 MR. SCHEUERMAN: You said he didn't
13 know what alternative -- alternate name
14 meant.

15 MR. STERN: No, not alternative,
16 alternate name. He did not know -- that's
17 true. But he doesn't know what the
18 significance of alternate name is, but he
19 acknowledges that that's what the document
20 that you provided to me says.

21 And then what is there as ARS is
22 abbreviation of alternate name, because in
23 his sworn answer to interrogatories, which
24 you provided to me, it says, quote, ARS,
25 unquote, has always been used by the

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1 defendant as an abbreviation of ARS Account
2 Resolution Services. ARS Account Resolution
3 Services is the alternate name as shown on
4 ARS03. So all that says is abbreviation of
5 alternate name ARS. So there's no two
6 alternate names on here. There is an
7 alternate name and the abbreviation of
8 alternate name. He already said ARS is a
9 shortened form of or short name or a
10 shortening of ARS Account Resolution
11 Services.

12 MR. SCHEUERMAN: The question was
13 confusing because it was unclear what you
14 were referring to when you said the alternate
15 name. Moreover --

16 MR. STERN: If the question is
17 confusing it's not for you to identify it as
18 confusing.

19 MR. SCHEUERMAN: It's an objection.
20 And I said ambiguous. I have to make that
21 objection or it's waived.

22 MR. STERN: You can make an objection
23 as to form.

24 MR. SCHEUERMAN: I didn't tell him not
25 to answer. I made a form objection.

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1 MR. STERN: I didn't say that. When
2 you say it's ambiguous or confusing to you,
3 it signals to the witness that the witness
4 should be careful that -- the witness may not
5 think it's ambiguous. The witness may think
6 it's crystal clear. But now the witness's
7 counsel told him, Look out, that question is
8 ambiguous.

9 MR. SCHEUERMAN: Under the rules I have
10 to say the basis for the form objection to
11 give you an opportunity to amend it.

12 MR. STERN: Not unless I ask you for
13 it. You also cannot, as I read in the
14 guidelines from Hall versus Clifton, you
15 cannot give objections which signal to the
16 witness anything about responding to the
17 question.

18 MR. SCHEUERMAN: It didn't. All I said
19 was the basis for the form of the objection.

20 MR. STERN: I disagree.

21 MR. SCHEUERMAN: Can we bring him back
22 in?

23 MR. STERN: What's your --

24 MR. SCHEUERMAN: You can ask him
25 anything you want.

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1 MR. STERN: I don't understand what
2 your problem is.

3 MR. SCHEUERMAN: Your question that you
4 asked him, it was unclear what you meant by
5 alternate name. So maybe you can walk him
6 through that.

7 MR. STERN: If he doesn't understand
8 the question, and I have no problem giving
9 the instruction again. The witness seems to
10 have no problem if I'm not accurately stating
11 something of telling me that or saying it's
12 not clear or he doesn't understand. If he
13 doesn't understand it's not for you to raise
14 an objection to signal to him to say he
15 doesn't understand.

16 MR. SCHEUERMAN: I have to raise an
17 objection if it's a bad question.

18 MR. STERN: You can object to form. If
19 I want to rephrase it I may ask you to
20 explain why -- what the problem with the form
21 is. But you have preserved your objection by
22 saying objection to the form.

23 MR. SCHEUERMAN: I will make the
24 objections as I see fit and interpret the
25 rules.

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1 MR. STERN: You can make any objections
2 you want. But if they are outside the bounds
3 of the guidelines then it's not proper.

4 Let's take a five-minute break.

5 (Whereupon there was a recess in the
6 proceedings from 12:07 to 12:09 p.m.)

7 BY MR. STERN:

8 Q. Is there someone at HRRG who is in
9 charge of the management of this lawsuit?

10 A. Yes. Me.

11 Q. Is there anyone that you have to report
12 to with respect to the management of this case?

13 A. No.

14 Q. What I understood in your response to
15 my question about whether ARS is named in the
16 contract between HRRG and Genesis, I was left with
17 the impression that ARS is not all of HRRG. Is
18 ARS -- is referring to ARS refer to HRRG as the
19 entire company?

20 A. No.

21 Q. What does ARS do that the rest of HRRG
22 does not do?

23 A. ARS performs collection services
24 related to more severely delinquent accounts,
25 older accounts than the accounts HRRG collects

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1 for.

2 Q. Are the employees of HRRG -- excuse me,
3 withdrawn.

4 Are the employees of ARS separate and
5 distinct from employees of HRRG?

6 A. Yes.

7 Q. Does ARS occupy space that is separate
8 and apart from space occupied by HRRG? And by
9 "space," I mean like office space where it
10 conducts its business.

11 A. Yes. It's contiguous space. It's in
12 the same building and area within the building,
13 but it is not -- it's a separate space.

14 Q. And it has its own structure of
15 hierarchy of management?

16 A. Yes.

17 Q. You are president of HRRG; correct?

18 A. Yes.

19 Q. And so that includes HRRG of which part
20 of that is ARS?

21 A. Yes.

22 Q. I would assume that there are multiple
23 ways to measure the size of a debt collection
24 business; by that, just for instance, number of
25 accounts, total of balances that are due on

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1 accounts, total amount that's actually collected
2 at any given period. Would you agree those are
3 different ways that one could measure the size of
4 a debt collection business?

5 A. Yes.

6 Q. Okay. Is there a way to measure the
7 size of the business that ARS does compared to the
8 remainder of what HRRG does?

9 A. Yes.

10 Q. How would you do that?

11 A. There's a separation of accounts that
12 are placed in collections with HRRG as opposed to
13 the accounts placed with ARS. So the results of
14 the two business units could be measured
15 separately based on the placement of those
16 accounts.

17 Q. Are they, in fact, measured separately?

18 A. Yes.

19 Q. Do you know -- can you relate either by
20 way of percentages or fractions of how much
21 overall HRRG's business is ARS's business?

22 A. Yes, I could estimate. It would be a
23 very rough estimate.

24 Q. If you -- with that understanding, what
25 would that estimate be?

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1 A. I would estimate ARS to be about a
2 third the size of HRRG.

3 Q. And if you wanted to know more
4 specifically or a more accurate number, what would
5 you look at? Are there documents, records, or
6 reports that you could look at to get a more
7 accurate number?

8 A. Yes.

9 Q. What are those documents that you would
10 look at?

11 A. They would -- there are multiple
12 documents that would house that information, but
13 the financials.

14 Q. How often are the financials prepared?

15 A. They are updated monthly. There are
16 separate reports that are run each month end.

17 Q. So you could take -- for any given
18 month you could take the reports for that month
19 and have a fairly accurate number of what
20 percentage of HRRG's business is ARS?

21 A. Yes.

22 Q. And when you are roughly estimating a
23 third, month to month would -- you know, to what
24 extent do you think that would vary off of that
25 rough estimate, or would it stay pretty much in

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1 that range?

2 A. It would stay pretty much in that
3 range.

4 Q. So it doesn't fluctuate that much? It
5 doesn't fluctuate greatly?

6 A. No.

7 Q. Obviously "greatly" is a loose term,
8 but okay.

9 Are all of the accounts that ARS
10 attempts to collect accounts that are transferred
11 from the other side of HRRG's business?

12 A. I'm not sure. Could you explain what
13 you mean by "the other side of HRRG's business"?

14 Q. Sure. From what I understood from your
15 testimony is that ARS addresses the more severely
16 delinquent accounts; is that a fair statement?

17 A. Yes.

18 Q. Do accounts get placed directly with
19 ARS or do they get placed with HRRG, and then once
20 the account is evaluated for the severity of their
21 delinquency then the more severe ones are placed
22 with ARS?

23 A. The accounts are first placed with
24 HRRG.

25 Q. Because they are not delinquent yet?

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1 A. Then at some point after placement with
2 HRRG the accounts are evaluated and returned to
3 the HCFS billing system.

4 Q. Okay.

5 A. And a portion of those accounts are
6 then transferred in electronic file to be worked
7 by ARS.

8 Q. Okay. And when you say they are
9 evaluated, is that done by way of formulas or
10 algorithms, or is it done by an individual, you
11 know, looking at case-by-case basis or both?

12 A. It's done based on parameters that have
13 been set up.

14 Q. Okay.

15 A. Those parameters may change from time
16 to time.

17 Q. Understood. And that's a judgment
18 called made by?

19 A. By a person.

20 Q. By a person. Then it's programed into
21 your system to make those determinations?

22 A. Yes.

23 Q. And that's all done in-house? That's
24 not done by outside third-party vendors; correct?

25 A. Correct.

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1 Q. With respect to -- I wanted to finish
2 up with Genesis and the speech analytics that you
3 referred to it.

4 A. Yes.

5 Q. Is that done -- is that just purely a
6 quality control and training kind of function that
7 that serves?

8 A. Yes.

9 Q. Because I'm imaging what's happening,
10 it's analyzing, you know, its speech. It's
11 recognizing the speech in those phone calls. And
12 then based upon, again, whatever parameters you
13 set up in terms of what was discussed, maybe words
14 that are used, a whole bunch of analytics, voice
15 volume and how rapidly someone is speaking and
16 that kind of information goes into and is figured
17 out this is something that needs to be reviewed or
18 maybe corrected or we can improve in this way or
19 we need to talk to this agent, you know, and
20 compliment them because of the job they did, that
21 kind of stuff; that's what it's used for?

22 A. Yes.

23 Q. You are aware that this case involves
24 voicemail messages that were left for the Levins
25 by HRRG?

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1 A. Yes.

2 Q. The voicemail messages left were either
3 prerecorded or computer-generated; correct?

4 A. I believe so.

5 Q. And just to be clear, to contrast that
6 from an actual agent being on the phone, and the
7 phone rings, voicemail comes on, and an agent left
8 a message; correct?

9 A. Can you start the question again?

10 Q. I was saying -- I was contrasting, you
11 know, a prerecorded message from a live agent is
12 actually leaving, you know, is on the line and
13 leaves the message, speaks the message live so
14 it's being recorded on the voicemail system is a
15 human being speaking to create that recording?

16 A. Yes. I was thinking about when you
17 said -- I think you said computer-generated. And
18 we don't use any computer-generated messages.

19 Q. Okay. But it's a prerecorded?

20 A. It would be a prerecorded message as
21 opposed to a live human leaving a message.

22 Q. You have a vendor who provides the
23 messages itself, in other words, does the
24 recording?

25 A. We use a vendor to record the messages

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1 we leave, yes.

2 Q. And do you use a vendor to draft the
3 script of what's being said?

4 A. No.

5 Q. So that's -- the script is prepared
6 in-house?

7 A. Yes.

8 Q. And the script that was used in the
9 messages left for the Levins, has that script been
10 changed since the filing of this lawsuit?

11 A. I don't believe it has.

12 Q. Who approved the use of the script that
13 was used for the Levins' messages?

14 A. I would say more than one person
15 reviewed it. Ultimately I approved it.

16 Q. When did HRRG first start using the
17 message that was left for the Levins?

18 A. I don't recall the date that the
19 message was being -- was first used.

20 Q. Were the calls placed by an outside
21 vendor?

22 A. Not that I'm aware of.

23 Q. Does HRRG or -- I don't know if it's
24 separate from ARS or not. Does HRRG have its own
25 dialers?

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1 A. Yes.

2 Q. So is it correct that the calls placed
3 to the Levins did not arise each time a call was
4 placed by a human being saying let's place a call
5 to the Levins now, but instead the Levins -- the
6 phone number was part of a batch of accounts on
7 which calls were going to be placed and were
8 queued into the dialer system?

9 MR. SCHEUERMAN: Objection. How is
10 this relevant to the two issues of the real
11 name issue?

12 MR. STERN: It has to do with the use
13 of the ARS name.

14 MR. SCHEUERMAN: What's the proffer?

15 A. Well --

16 MR. SCHEUERMAN: Stop. I'm going to
17 object. I object. Don't answer the
18 question. If you can go outside, I want to
19 see what the proffer is for this line.

20 MR. STERN: You can stay right here.
21 The proffer is the voice messages say ARS.

22 MR. SCHEUERMAN: Okay.

23 MR. STERN: So the voice messages
24 reflect evidence of the use of ARS. All
25 right? Which is the issue -- the issue as

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1 defined by the court is the use of, quote
2 unquote, ARS.

3 MR. SCHEUERMAN: So what's -- what are
4 you trying to get at, that they say ARS in
5 the message? What's the proffer?

6 MR. STERN: I'm trying to find out how
7 they use ARS.

8 MR. SCHEUERMAN: What they say in the
9 message?

10 MR. STERN: No.

11 MR. SCHEUERMAN: What's the issue?

12 MR. STERN: I know they say in the
13 message, they use ARS. I'm trying to find
14 out how they use it.

15 MR. SCHEUERMAN: What you don't mean
16 "how they use it"?

17 MR. STERN: Exactly what I'm getting
18 at. Exactly what we are talking about. Is
19 it a dialer or --

20 MR. SCHEUERMAN: How is using a
21 dialer --

22 MR. STERN: -- or individual.

23 MR. SCHEUERMAN: How does using a
24 dialer, how is that relevant to this?

25 MR. STERN: It goes to the general

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1 usage of the name.

2 MR. SCHEUERMAN: If they are using a
3 dialer or not, if the message is the same it
4 doesn't matter. So using a dialer or someone
5 physically picking up and calling --

6 MR. STERN: So if you want to stipulate
7 that we can exclude that any fact as to
8 whether HRRG uses the name ARS in messages to
9 any other consumer, then we can take that out
10 of the case.

11 MR. SCHEUERMAN: I'm not stipulating
12 anything.

13 MR. STERN: I'm trying to find out
14 about the facts about that.

15 MR. SCHEUERMAN: There's no class --
16 what are you trying to figure out, whether
17 they use the same message with other
18 consumers? You're talking about use of a
19 dialer.

20 MR. STERN: I don't know what I'm
21 talking about because he hasn't answered the
22 question.

23 MR. SCHEUERMAN: I object. You can
24 mark that down.

25 MR. STERN: You are not going to let me

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1 ask him how they use this voice message? You
2 are not going to let me ask him how they do
3 that?

4 MR. SCHEUERMAN: That's not your
5 question.

6 MR. STERN: The question is related to
7 the usage.

8 MR. SCHEUERMAN: What's the question
9 you want to use?

10 MR. STERN: You can't ask -- make me
11 ask the question you want me to ask.

12 MR. SCHEUERMAN: I'm not.

13 MR. STERN: I can ask the question to
14 get to the facts the same way.

15 MR. SCHEUERMAN: I object. It's beyond
16 the scope based on what I heard.

17 MR. STERN: Let's mark it.

18 I can't ask him anything about the
19 dialer and how they use the dialer; right?

20 MR. SCHEUERMAN: No. What's the
21 proffer?

22 MR. STERN: I want to be clear.

23 MR. SCHEUERMAN: What's the proffer?

24 MR. STERN: I made the proffer already.
25 I'll ask the question.

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1 BY MR. STERN:

2 Q. Does the dialer use an IVR system?

3 A. No.

4 Q. Does the dialer or any other mechanism
5 allow for detecting whether or not a phone call is
6 answered by a live person or by a machine?

7 A. Yes.

8 Q. Is there more than one prerecorded
9 message that HRRG uses when leaving a voicemail
10 message?

11 A. Yes.

12 Q. How many currently are used?

13 A. I don't know.

14 Q. How many of them identify the caller as
15 ARS?

16 A. I don't know.

17 Q. Do all of them identify the caller as
18 ARS?

19 A. No.

20 Q. Was the Levins' debt placed with HRRG
21 but not with ARS at any point in time?

22 A. Yes.

23 Q. Was it placed with HRRG but not with
24 ARS prior to or after it was placed with ARS?

25 A. Prior to.

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Exhibit 1

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1 Q. The copy of the letter that was sent to
2 the Levins that appears as ARS4 in D-2, you said
3 that the return address was an address for ARS;
4 correct?

5 A. Yes.

6 Q. Does the non-ARS part of HRRG send
7 collection letters?

8 A. Can you just go back to the -- does the
9 non what?

10 Q. The non-ARS part of HRRG --

11 A. Okay.

12 Q. -- use collection letters?

13 A. Yes.

14 Q. And they use the same vendor?

15 A. Yes.

16 Q. And do they use the same return
17 address, the same PO Box that's reflected in ARS4?

18 A. No.

19 Q. Do letters sent by the mail vendor ever
20 get returned undelivered?

21 A. Yes.

22 Q. What happens with those undelivered
23 letters?

24 A. They go -- some go back to the letter
25 vendor, some are returned to our office in

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1 Sunrise.

2 Q. Why would some be returned to the
3 vendor and some come back to the office?

4 A. It depends what -- it depends on a
5 number of factors. But it could be sent back as
6 the result of being non-deliverable or it could be
7 sent back as the result of someone not being at
8 the address that we are sending the letter out to.

9 Q. So it depends on what's -- what the
10 post office put on the envelope; is that fair? Is
11 that one of the factors?

12 A. Yes. The post office determines what
13 happens with the return mail.

14 Q. Sometimes the post office will put a
15 label on with a forwarding address but saying the
16 forwarding address had expired, is that one of
17 the -- correct?

18 A. Not normally, no.

19 Q. Okay. Are all return envelopes checked
20 for -- to re-verify the address?

21 A. No.

22 Q. Is there any information placed in the
23 account notes when an envelope is returned?

24 A. Yes.

25 Q. Are all return envelopes -- is the fact

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1 that an envelope is returned always noted in the
2 account notes?

3 A. I wouldn't say always, but we try to
4 make sure that all return mail is processed and
5 noted in the system.

6 Q. And what happens to returned mail is
7 all determined in-house; in other words, within
8 HRRG as an initial matter; correct?

9 A. Yes.

10 Q. I understand some of it goes back to
11 the mail vendor so the mail vendor may have
12 followup subsequent. But initially it's all
13 in-house, as you said?

14 A. I said it was determined at HRRG.

15 Q. Yes. Initially?

16 A. Yes.

17 MR. STERN: Off the record.

18 (Discussion off the record.)

19 (Whereupon there was a recess in the
20 proceedings from 12:39 to 1:42 p.m.)

21 BY MR. STERN:

22 Q. Do you have D-3 in front of you? It's
23 the answers to interrogatories.

24 A. Yes.

25 Q. Let's go back to D-2. Drawing your

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Exhibit 1

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1 attention to ARS7 through 12. You had referred
2 earlier in your testimony to account notes. Is
3 ARS7 through 12 the account notes for the debt ARS
4 tried to collect from the Levins?

5 A. This is a printout for the account
6 notes, yes, for the Levins. 80864955 is the
7 account.

8 Q. Does it show on -- you said it's a
9 printout of the account notes. Referring to them
10 as the account notes is not accurate. It's a
11 printout of the account notes. The account notes
12 are maintained electronically?

13 A. Yes, that's true.

14 Q. You made that distinction. If I
15 referred to these pages as the account notes, that
16 would not be accurate; correct?

17 A. I said this is a printout of the
18 account notes. It's an accurate representation of
19 the account notes at the time it was printed up.

20 Q. On page ARS7, you see that not quite --
21 about halfway down the page on the left-hand side
22 in all capital letters it has the word NOTES?

23 A. Yes.

24 Q. And are the notes all the text which
25 follows and follows all the way through ARS12

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1 until it says end of report?

2 A. Yes.

3 Q. And is there a description you have
4 for, I don't know, the text that precedes these
5 notes on ARS7? Do you see where -- is there a
6 name for that section? I don't know if it's one
7 or more sections on ARS7, in other words, which is
8 above the notes.

9 A. Yes, I see that section.

10 Q. Okay.

11 A. Is there a name for that? No, we don't
12 use a specific name for that section.

13 Q. Okay. When it says -- I want to go
14 through this in some detail. I have some
15 questions about these -- the printout of the
16 account notes.

17 A. Okay.

18 Q. I'll try to do it in the order it
19 appears. It says -- there's a line that says,
20 "collector HSA0 house route," what does that mean?

21 A. It is a term that is referencing the
22 collector route; that it is not assigned to an
23 individual agent, it is a house route, which would
24 be meaning the agency.

25 Q. Okay. Let me ask you, in the upper

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1 left it's got a date there of 2-17-17; do you see
2 that?

3 A. Yes.

4 Q. And a time of 10:33 a.m.?

5 A. Yes.

6 Q. Is that the date and time this printout
7 was made?

8 A. Yes.

9 Q. And it's PJB, is that the initials of
10 the individual who generated the report?

11 A. Yes.

12 Q. Generated the printout?

13 A. Yes.

14 Q. Do you know who PJB is?

15 A. Yes, I do.

16 Q. Who is that?

17 A. A Patrick Brennan. Pat Brennan. Pat
18 is short for Patrick.

19 Q. Is Patrick Brennan an employed by HRRG?

20 A. Yes. He's employed by -- I'm going to
21 take back the yes on that.

22 Q. Okay.

23 A. And say I believe he's an HRRG
24 employee.

25 Q. When you referred to agents, there are

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1 agents who work within ARS and there are agents
2 who work within HRRG but not within ARS; correct?

3 A. Yes.

4 Q. Are those -- is an agent who works for
5 HRRG but not ARS and an agent who works for ARS
6 paid by the same entity?

7 MR. SCHEUERMAN: Objection to form.
8 How is this related to the issues, the true
9 name issue?

10 MR. STERN: Can you please step out?

11 MR. SCHEUERMAN: You can step out.

12 (Witness leaves the room.)

13 MR. STERN: One aspect of any
14 businesses transaction is the payment of its
15 employees. If all the employees are paid by
16 HRRG with no designation of ARS, that's
17 relevant to whether ARS is a name under which
18 HRRG usually transacts business. If it
19 doesn't pay its employees -- some employees
20 as ARS and others as HRRG, I think that is a
21 fact relevant to whether or not --

22 MR. SCHEUERMAN: Okay, I agree.
23 Anything else for that line?

24 MR. STERN: I don't know where it's
25 going to go.

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1 MR. SCHEUERMAN: In that aspect I
2 agree. I may not agree with everything else
3 you are going to say related to this.

4 (Witness returns.)

5 MR. STERN: Can you read that back,
6 please?

7 (Record read.)

8 A. Yes.

9 Q. Who is that entity?

10 A. Ameriteam Services.

11 Q. Can you spell that?

12 A. A-M-E-R-I-T-E-A-M Services.

13 Q. Is Ameriteam Services an affiliated
14 company with HRRG and HCFS?

15 A. I don't know.

16 Q. Is Ameriteam an employee leasing
17 company?

18 A. I don't know.

19 Q. Does Ameriteam manage the agents?

20 A. No.

21 Q. Does HRRG pay money to Ameriteam that's
22 used to pay the agents?

23 A. I don't know.

24 Q. Are agents paid either a salary or an
25 hourly wage or commission or a combination?

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1 A. A combination.

2 Q. Is Ameriteam like a payroll service?

3 A. I don't know what they are. I just see
4 the name on the checks.

5 Q. By whom are you paid?

6 A. My checks have Ameriteam Services on
7 them.

8 Q. Do you receive a W-2 form every year?

9 A. Yes.

10 Q. Do you know whose name is the employer
11 on your W-2?

12 A. Yes. I think it's Healthcare Revenue
13 Recovery Group --

14 Q. Do you know --

15 A. -- LLC.

16 Q. I'm sorry. Do you know whose name
17 appears as the employer on the W-2s that are
18 issued to the agents?

19 A. I believe it's also Healthcare Revenue
20 Recovery Group, LLC.

21 Q. Is there any information different in
22 terms of identifying the employer depending on
23 whether an agent is working within ARS or not
24 working within ARS but working for HRRG?

25 A. I'm not sure. I think there is. I'm

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1 not sure what name is on their checks as far as
2 the, you know, the subgroup.

3 Q. When ARS receives payments from
4 consumers on the debts, where do those payments
5 go?

6 A. The payments are directed to a lockbox
7 in Cincinnati, Ohio.

8 Q. You mean for mailing checks? Is that
9 what you mean when you say payments are directed
10 to a lockbox?

11 A. Yes.

12 Q. Where do they get deposited?

13 A. They get deposited into Fifth Third
14 Bank.

15 Q. Whose account?

16 A. Whatever the lockbox number is that's
17 on the remittance that comes with the check.

18 Q. And what does that lockbox number
19 represent?

20 A. The lockbox number would represent the
21 business unit that is collecting the money.

22 Q. So is that the billing company or the
23 healthcare provider?

24 A. There are lockboxes for the billing
25 company and there are lockboxes associated with

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1 Healthcare Revenue Recovery Group and separate
2 lockboxes for ARS.

3 Q. Okay. If a payment is made by a credit
4 card on an account that's been collected by ARS, I
5 understand there's language in -- either on your
6 website or in your letter materials which state
7 that ARS will appear on the consumer credit card's
8 statement; are you aware of that?

9 A. Yes, I am.

10 Q. When ARS takes a credit card payment,
11 is that payment processed through a merchant
12 servicer?

13 A. Yes.

14 Q. Is the same merchant servicer that
15 process payments made on an account being
16 collected by HRRG but not ARS?

17 A. Yes.

18 Q. Is it the same merchant servicer for
19 both?

20 A. Yes.

21 Q. Is there a contract for the merchant
22 servicer's services?

23 A. Yes.

24 Q. Who are the parties to the contract?

25 A. The processor Billing Tree. And the

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1 contracts are between Billing Tree and HRRG, and
2 separate contracts between Billing Tree and ARS.

3 Q. Who signs the contract on behalf of
4 HRRG?

5 A. I sign it.

6 Q. And who signs the contract on behalf of
7 ARS?

8 A. I sign it.

9 Q. When you sign on behalf of ARS, is
10 there any designation of ARS and HRRG?

11 A. In my signing it?

12 Q. Yes.

13 A. I don't make a distinction when I sign.

14 Q. So when you sign the contract with ARS
15 you are signing as president of HRRG?

16 A. I would just sign as president. The
17 ARS would be above where I would sign it.

18 Q. But ARS is not a separate entity;
19 correct?

20 A. Correct.

21 Q. It's a group or, I don't know how you
22 would term it, a division, a group, a section, a
23 team; how do you refer to it?

24 A. I refer to it as a division, but it's a
25 separate business unit.

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1 Q. It's a separate business unit but it
2 doesn't have a separate corporate entity; correct?

3 A. To tell you the truth, I'm not sure if
4 they have a separate tax ID for ARS and HRRG.
5 They may, I'm not sure.

6 Q. Okay. And whether they have a separate
7 ID number, you understand a single -- withdrawn.

8 I'm sure counsel is going to object
9 when we start talking about the legal
10 distinctions. But do you understand that a
11 limited liability company and a corporation are
12 treated as if it were a person with respect to
13 having certain legal rights; do you understand
14 that concept?

15 MR. SCHEUERMAN: Objection to form.

16 A. Yes.

17 Q. As I understand your testimony, as well
18 as the information that's been provided by counsel
19 in this case, is that ARS Account Resolution
20 Services is an alternate name for HRRG and we have
21 looked at that certificate. And we have also
22 talked about that the letters A-R-S is just a
23 short version of ARS Account Resolution Services.
24 So my understanding is that ARS Account Resolution
25 Services is not a separate legal entity; in other

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1 words, it's treated as a person, the same way as a
2 corporation or LLC is treated as a person?

3 MR. SCHEUERMAN: Objection to form. I
4 object to form.

5 BY MR. STERN:

6 Q. The distinction I'm making in what I
7 just described --

8 MR. SCHEUERMAN: I object to form. I'm
9 going to put the basis on. If you want him
10 to step out I'm going to put the basis for
11 the objection.

12 MR. STERN: You don't have to. I don't
13 need him to --

14 MR. SCHEUERMAN: Yes or no?

15 MR. STERN: I'm not withdrawing the
16 question. You observed your objection.

17 MR. SCHEUERMAN: I need to put the
18 basis on. Do you want him to step out or
19 put --

20 MR. STERN: Please step out.

21 (Witness leaves the room).

22 MR. SCHEUERMAN: It calls for a legal
23 conclusion. You can come back in, David.

24 MR. STERN: Not yet. Hold on a second.
25 The problem I have is that the position that

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1 has been presented is one of legal
2 significance as to whether it's shortened as
3 ARS or longer as ARS Account Resolution
4 Services is a division, or as he described
5 it, a business separate unit. But it's not a
6 separate legal entity. If you have a witness
7 that doesn't understand the distinction it's
8 very difficult for me to get the information
9 that I need.

10 MR. SCHEUERMAN: Well --

11 MR. STERN: Because that's the position
12 you have taken. He doesn't understand what
13 alternate names are. He doesn't understand
14 the distinction between that HRRG is a formed
15 limited liability company in the State of
16 Florida and, therefore, it's treated as a
17 legal person versus a business unit. He
18 doesn't understand the distinction, and
19 that's a problem I think.

20 And I think the scope of the topics,
21 and I can go through them, clearly requires
22 that somebody is here who understands that
23 distinction.

24 MR. SCHEUERMAN: Ask the witness that.

25 MR. STERN: I have asked him, he

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1 doesn't understand that.

2 MR. SCHEUERMAN: I didn't tell him not
3 to answer.

4 MR. STERN: He doesn't understand.

5 MR. SCHEUERMAN: You are telling me.
6 The record reflects what the record reflects.

7 MR. STERN: I know it was a lengthy
8 explanation before the question which he
9 objected to. But if you can read that back.

10 (Previous record read.)

11 BY MR. STERN:

12 Q. Mr. Friedlander, I had given an
13 explanation and then asked you a follow-up
14 question based upon what I was explaining. Your
15 counsel raised an objection that was placed on the
16 record. I'm going to have the court reporter read
17 back the explanation again and I'll follow up with
18 the question.

19 (Previous record read.)

20 BY MR. STERN:

21 Q. Do you understand the distinction
22 between use of an alternate name and a legal
23 entity that I'm talking about in that explanation?

24 A. No, I don't really understand.

25 Q. Okay. In your mind, is either ARS or

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1 ARS Account Resolution Services a separate entity
2 from HRRG?

3 MR. SCHEUERMAN: Same objection. You
4 can answer.

5 A. I don't think it is.

6 Q. Do you agree that ARS and ARS Account
7 Resolution Services are names that HRRG applies to
8 the separate business unit that you described that
9 handles the more delinquent debts?

10 A. Yes.

11 Q. We can get back now to the printout of
12 the account notes on D-2, page 7.

13 Moving down, there's a line that begins
14 status. I think you identified that's the account
15 number that was applied to this account. And then
16 it's followed by the word disposition, colon, and
17 it says -- can you explain what that -- those next
18 words mean?

19 A. Yeah. It's just a descriptor for the
20 disposition, which is the computer classification.
21 Like a 3ATY means represented by an attorney.

22 Q. Okay. So the 3ATY is sort of a code?

23 A. Yes.

24 Q. And the code means represented by
25 attorney. So both appear there?

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1 A. Yes.

2 Q. And what does "wait" mean, and it's
3 followed by a date?

4 A. That would hold activity until a
5 certain date, is what I believe that means.

6 Q. Okay. The next line starts, it says
7 debtor and it says name Levins, **REDACTED** followed
8 by what I presume is what ARS understood to be her
9 social security number, followed by a phone number
10 for her.

11 A. Yes. That's the -- yes.

12 Q. So on the next line it says RP, what
13 does that mean?

14 A. Responsible party. **REDACTED** is the
15 patient, Elaine is the responsible party.

16 Q. Okay. Is there any way that you can
17 tell from, I guess you can from further down where
18 it says born.

19 A. Date of birth of the patient.

20 Q. You would know the patient is a minor.
21 You would be able to tell that from the date of
22 birth?

23 A. From the date of the birth, yes.

24 Q. And then a few lines down, I assume
25 that it's a shortened form for client, CLNT?

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1 A. Yes.

2 Q. Followed by a six-digit number, and
3 then a reference -- that's the identification of
4 the provider, the healthcare provider?

5 A. That's the -- our client code, yes.

6 Q. Is that a unique client code, a name
7 for -- that ARS uses, or is that -- does that sort
8 of get carried forward from the billing company?

9 A. It is one of the data elements that
10 comes from the billing company.

11 Q. And on the next line it starts with the
12 word list. What does that -- there's a date under
13 that, November 24, 2015. What does that
14 represent?

15 A. That's the date that the account was
16 placed with ARS.

17 Q. And the next one, SRD, September 2,
18 2014.

19 A. That's the service date. The date the
20 physician services were provided.

21 Q. And LTRS, is that the number of letters
22 that were sent?

23 A. Yes.

24 Q. By ARS?

25 A. Yes.

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1 Q. And then there's the word time, and it
2 says 5; what does that mean?

3 A. I don't know.

4 Q. And call 67, is that the number of
5 calls placed to the responsible party?

6 A. That is, I believe, the number of call
7 attempts.

8 Q. The next word is con zero; what does
9 that mean?

10 A. I don't know.

11 Q. And the balance, I assume that's the
12 amount of the balance shown on the account?

13 A. Yes. The remaining balance on the
14 account.

15 Q. The next -- I don't know if you call it
16 a subsection or not. Moving down it says multiple
17 accounts. Were there multiple accounts involved
18 here?

19 A. No.

20 Q. So the information that appears in the
21 few lines below that is just the same information
22 on the same debt, not a different debt; correct?

23 A. Correct.

24 Q. Let's move down to the section on
25 notes. I observed that in the first column there

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1 are a few variations on the first page, it says
2 GAP.

3 A. Yes.

4 Q. And that proceeds until ARS9. And then
5 there's GC. GC is on 10. On ARS 11 there's GC
6 and PJB. And on 12 there's GC and PJB. Am I
7 correct that the PJB refers to Patrick Brennan?

8 A. Yes.

9 Q. What do the others refer to? The GA --

10 A. GAP refers to Gregory Preston.

11 Q. And GC?

12 A. GC is a system generated transaction.

13 Q. Does ARS perform any scrubs on any
14 accounts as a matter of course?

15 A. Yes.

16 Q. What scrubs do they perform?

17 A. They perform scrubs to find
18 bankruptcies.

19 Q. Is that the banco?

20 A. Yes. That's -- that's one of the
21 scrubs that they do, yep. I think they do a
22 deceased scrub and they do a scrub for accounts
23 who are frequent litigants. That's the web recon,
24 W-E-B R-E-C-O-N, scrub.

25 Q. We talked about the account was first

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1 listed on November 24, 2015. And there's, I think
2 rough count quickly, about seven lines that have a
3 date of November 24, 2015 on page ARS07. Do you
4 see that? Do you see those lines?

5 A. Yes.

6 Q. In there is the web recon that you just
7 mentioned.

8 A. Yes.

9 Q. And is there any indication in any of
10 those notes as to the bankruptcy scrub or the
11 deceased scrub?

12 MR. SCHEUERMAN: How is this relevant
13 to the true name issue? Objection. How is
14 that relevant? Do you want him to step out?
15 I mean, we are going far afield here.

16 MR. STERN: I am -- this is a document
17 that you produced in discovery.

18 MR. SCHEUERMAN: Okay.

19 MR. STERN: Notwithstanding that if it
20 was not -- if it was outside the scope of
21 discovery maybe that would have been an
22 objection at the time you produced this. I'm
23 trying to find out what this means. I don't
24 know what it means, so I don't know if it's
25 related or not. He just testified to scrubs

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1 that were done. And so I'm just trying to
2 find out where that information comes from.

3 MR. SCHEUERMAN: I object. I mean, the
4 judge's order from yesterday says discovery
5 is limited to the true name issue at this
6 juncture. I don't know how a bankruptcy
7 scrub is relevant to that issue.

8 MR. STERN: I don't know until I can
9 find out. I'm trying to find out what the
10 information is you provided to me.

11 MR. SCHEUERMAN: I object.

12 MR. STERN: If you don't want him to
13 answer.

14 BY MR. STERN:

15 Q. Don't tell me where the bankruptcy
16 scrubs are or the deceased scrubs are.

17 Do you see there on ARS07 there's a
18 line with a date of November 25, 2015. There's a
19 whole bunch and they are all dated 844. So there
20 are a series of ones on the 25th that within the
21 line there are dates that predate November 24,
22 2015.

23 A. Yes, I see that.

24 Q. Okay. And there is one that I see that
25 refers to -- has the word "letter" in the

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1 description. Do you see that one?

2 A. Yes.

3 Q. With an internal date of January 24,
4 2015, 12 p.m. What letter is that?

5 A. These are notes that were imported.
6 When ARS first loaded the account information
7 there are transactional notes that come over from
8 HRRG's system. And this is all part of the notes
9 that are imported into the ARS record from HRRG's
10 actual transactional information.

11 Q. Okay. And is there --

12 A. Some of the HRRG transactional
13 information is imported from the billing system.

14 Q. Okay.

15 A. So where it says -- on the line you're
16 talking about where it says credit letter sent to
17 994 --

18 Q. Yes.

19 A. -- that is a financial class change
20 that's taken place on the client billing system
21 before the account went to HRRG. It is used for
22 historical purposes to know that certain processes
23 took place prior to the account making its way to
24 the collection agency and to that part of the
25 revenue cycle.

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1 Q. Okay. Now, let me ask you this: A
2 number of the entries, we have the column with the
3 initials of the person or the GC -- I'm running
4 across the line -- a date, a time, and then we
5 start to have some text. There's quite a number
6 that start with the letters HRG.

7 A. Yes.

8 Q. Does that indicate that the information
9 is information that was brought over from HRG?

10 A. Yes, it does.

11 Q. Are there other entries that are also
12 brought over from HRG that don't begin with HRG at
13 the beginning of the line?

14 A. There are lines that are carried over
15 from the preceding line --

16 Q. Right.

17 A. -- that don't have HRG at the beginning
18 of the line. There are the -- I think seven lines
19 up above that don't have the HRG that are not from
20 the HRRG record.

21 Q. Okay.

22 A. But for the most part, all of that data
23 going down to -- through where the time is 8:44,
24 11-25 at 8:44, that would, for the most part, be
25 all imported transactional notes that loaded when

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1 the account first was placed with ARS.

2 Q. Are there account notes that HRRG has
3 that preceded the placement of the account with
4 ARS?

5 A. Yes.

6 Q. And are all of those account notes
7 incorporated within the ones you just described?

8 A. Not necessarily all the notes that HRRG
9 has. Only the notes that are part of the data
10 interfaced that is imported --

11 Q. Okay.

12 A. -- at the time ARS first loads the
13 account.

14 Q. Okay. So if you turn to the ARS8.

15 A. Yep.

16 Q. Actually, I have a bunch of questions
17 mostly on this page about all those entries that
18 were imported or about some of the entries.

19 The first five lines refer to a series
20 of dates that occurred in March 2015 and times.
21 Do you know what those notes mean?

22 A. Yes.

23 Q. What do they mean?

24 A. These are transactional notes. The
25 TRNA -- these notes were imported into HRRG's

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1 system from their prior collection software
2 system, which was CR Software. The TRNA is an
3 abbreviation for "telephone residence, no answer."
4 And CMP01 is the calling campaign that was dialed,
5 campaign 1.

6 Q. What's a calling campaign?

7 A. It's numbers that are within a calling
8 list.

9 Q. When you say a "campaign," that
10 reflects -- so the very first one on ARS8, that
11 notes a record of a phone call having been placed
12 to Ms. Levins; correct?

13 A. Yes.

14 Q. Does it reflect -- on those calling
15 campaigns that's loaded into your -- I assume it's
16 computers but the telephone systems that you use
17 in-house, I think I referred to them as a dialer
18 before. Correct, that's where it gets loaded?
19 You said there's a list that gets loaded into the
20 dialing system?

21 A. No, I wouldn't -- I don't agree with
22 that.

23 Q. When these calls are placed, are
24 these -- are agents individually picking up the
25 phone and dialing these numbers on one of these

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1 campaigns or on this campaign?

2 A. Agents are on the phone. They are not
3 picking up the receiver of a phone. They are
4 wearing headsets. They are making and receiving
5 calls.

6 Q. All right. Is this call that's
7 designated on the first line a call that was
8 placed by -- let me step back so we are clear.

9 I assume what you are saying they are
10 on a headset. They can place a call by something
11 on their screen shows them there's a phone number
12 and somehow they can click on something and the
13 call gets placed; is that correct, as opposed to a
14 manual telephone that they are pushing buttons?
15 Correct, is that how it's done when they place a
16 call?

17 A. No, no. That's not how it's done.

18 Q. How does an agent place a call?

19 MR. SCHEUERMAN: Objection. Beyond the
20 scope of the discovery order.

21 MR. STERN: It's not. These are calls
22 placed by HRRG to my clients.

23 MR. SCHEUERMAN: You're saying how --
24 how the manner in which they dial it --

25 MR. STERN: I'm trying to describe --

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1 he described the campaign.

2 MR. SCHEUERMAN: How is that relevant
3 to whether they typically use ARS as a name?
4 How is that relevant?

5 MR. STERN: We will find out -- once I
6 know how the call was placed, I can find out
7 what was -- how -- what was used.

8 MR. SCHEUERMAN: What's your proffer?

9 MR. STERN: Can you please leave the
10 room?

11 (Witness leaves the room.)

12 MR. STERN: I'm going to say generally
13 again, first is any kind of activity of your
14 client and then that activity and whether
15 they are using HRRG or ARS or some other name
16 is relevant to the issues in this case.

17 MR. SCHEUERMAN: An activity in
18 which --

19 MR. STERN: Any activity that they
20 engage in. What manner in which they use
21 that activity is relevant. So HRRG, we
22 already know HRRG, whether it's the business
23 entity that's ARS or HRRG, it's all coming
24 from HRRG. That's the only legal entity
25 here.

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1 MR. SCHEUERMAN: Why don't --

2 MR. STERN: So if he called up -- if in
3 this campaign they called up and said HRRG
4 calling, that's evidence of them not using
5 ARS. But I don't even know what it means,
6 this campaign.

7 MR. SCHEUERMAN: I don't understand why
8 you can't simplify and ask him that. If
9 during oral communications how did you
10 represent yourself, as ARS, as HRRG, or what,
11 or what oral communications do you -- I don't
12 understand.

13 MR. STERN: Because I have a record
14 that you have provided to me of a specific
15 call on a specific date and time. And I want
16 to know what that information is on that
17 specific call.

18 MR. SCHEUERMAN: As to what --

19 MR. STERN: Because we know there are
20 calls that they used ARS. But I want to know
21 about this call.

22 MR. SCHEUERMAN: As to whether someone
23 physically called or whether it was --

24 MR. STERN: I don't know.

25 MR. SCHEUERMAN: -- a message?

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1 MR. STERN: I don't know. I don't know
2 yet. He hasn't answered the question. If
3 someone physically called, what script were
4 they provided? How were they trained in
5 terms of what they were supposed to say? I
6 don't know that.

7 MR. SCHEUERMAN: But you are not asking
8 those questions.

9 MR. STERN: I haven't gotten there yet.

10 MR. SCHEUERMAN: You never seem to
11 be -- it doesn't seem like that's your end
12 game.

13 MR. STERN: That is.

14 (Witness returns.)

15 BY MR. STERN:

16 Q. Maybe try a different approach. Maybe
17 a more general question. Maybe I can get the
18 information I'm looking form.

19 You identified in that first line that
20 a call was placed to my client on March 3, 2015 at
21 6:49 p.m. I'm trying to find out how was the call
22 placed and what information is there about what
23 happened during that call.

24 A. Okay. As we were saying, these are
25 notes that were imported from two systems before

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1 the system that's --

2 Q. You're currently using.

3 A. -- we are on. So those notes were from
4 when HRRG was collecting in the primary phase of
5 collections for this account from the Levins.

6 Q. Right.

7 A. The agent had a headset. The number
8 would be selected to be dialed from the database
9 based on the parameters that are set up within
10 that system. So a campaign would be an
11 integration that causes a phone number to be sent
12 from the database to be dialed by the dialer.
13 Before the agent can get that call they have to be
14 logged in, and they have to be available and
15 waiting for a call. And they have to be the agent
16 who is logged into that specific calling campaign;
17 and they have to be the agent that's been waiting
18 for a call the longest with the specific skill set
19 needed to answer the call.

20 Q. The system places the call and then
21 detects if there was a live answer; right?

22 A. Yes.

23 Q. A human being, somebody answered the
24 phone?

25 A. Yes.

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1 Q. And then once it's answered the system
2 queues it up to --

3 A. Subsecond transfer -- there's a
4 subsecond transfer to the agent with that skill
5 set who has been waiting the longest.

6 Q. Okay. Is there any information in the
7 account notes you have in front of you, the
8 printout, that reflects what happened during that
9 call that -- the first one on the first line of
10 ARS8?

11 A. Yes. The NA is what we call the result
12 code, and that's the code for no answer. So the
13 call was made, it wasn't answered.

14 Q. Had the call been answered and had
15 there been an available agent that was
16 transferred, would the agent have identified who
17 was calling?

18 A. Are we speculating what might have
19 happened?

20 Q. No. I'm assuming there are training
21 policies and procedures about what happens when --
22 you have said it only goes to an agent who has the
23 proper skill set. I assume there's some training
24 in terms of what happens. So I assume when the
25 call connects the first thing that happens in some

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1 way that agent qualifies the person on the other
2 line as the debtor; is that the first thing that
3 happens?

4 A. It depends on the call.

5 Q. Okay. Well, I mean for this campaign,
6 if the daughter -- if the patient had answered the
7 phone, isn't the first thing that the agent would
8 do is make sure they are talking to the
9 responsible party or her husband?

10 A. Yes. They would go through --

11 Q. That's what I mean by qualifying.

12 A. They would go through a process of
13 identifying that they have a right party on the
14 phone.

15 Q. Okay. A right party. And then once
16 they do that, they would identify who is calling?

17 A. Yes. Assuming they have the right
18 party on the phone, they will then identify the
19 name of the company, yep.

20 Q. And when this particular call was
21 placed, the one we are talking about on March 3rd
22 of 2015, had the phone been answered and it was a
23 right party, would the agent have identified HRRG
24 or ARS?

25 A. At that time they would have identified

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1 HRRG.

2 Q. And the same is true for all calls
3 placed to the Levins prior to the listing date of
4 November 24, 2015; correct?

5 A. No, that's not correct.

6 Q. So would any calls placed to the Levins
7 prior to November 24, 2015, have identified the
8 caller as either ARS or ARS Account Resolution
9 Services?

10 A. No.

11 Q. But they may not have identified
12 themselves as HRRG; correct?

13 A. They may not use -- are you asking if
14 they may --

15 Q. From your answer before that no -- my
16 prior question, I was assuming you were saying --
17 I think I asked that they would have been
18 identified as HRRG and you said no, they wouldn't
19 necessarily have been, not all the calls. Isn't
20 that what you were saying?

21 A. Well, my "no" had to do with the timing
22 of when calls would have started.

23 Q. Okay.

24 A. Outbound calling on this -- on the
25 Levins didn't begin until December 10th, according

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1 to these notes.

2 Q. December 10th of what year?

3 A. 2015.

4 Q. What about the --

5 A. From ARS. Those notes were -- those
6 notes that you are looking at were imported from
7 HRRG. Calls from ARS did not start until December
8 10, 2015.

9 Q. To your knowledge, has HRRG produced
10 notes from the collection of -- the collection of
11 the debt by HRRG prior to when it was placed with
12 ARS, other than what's incorporated in these
13 notes?

14 A. To my knowledge, no.

15 Q. Have you reviewed those notes in
16 preparation for this deposition?

17 A. No. Only to the extent that they are
18 on the imported --

19 Q. The imported ones.

20 A. I have reviewed the imported notes.

21 Q. Right, understood. If you go down on
22 ARS8, down about, I'll say the line that
23 immediately precedes the line that starts with the
24 word "machine." Do you see that?

25 A. I'm not following. Where?

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1 Q. There's a line that's --

2 A. We are on ARS8 or ARS9?

3 Q. 8. I'm sorry.

4 A. Okay. On 8, yep.

5 Q. It's the sixth line down.

6 A. Okay. And you are looking at the line
7 preceding that?

8 Q. Yeah. Actually, before we get into
9 that. Lines two and three, other than the dates
10 and times it's the same as the first line;
11 correct? It shows the transaction, no answer, and
12 it was the campaign 1.

13 A. Yes.

14 Q. And then the third and fourth lines --
15 excuse me, the fourth and fifth lines show the
16 transaction no answer, that's also a call placed
17 but there's no campaign noted; correct?

18 A. Yes.

19 Q. And would either of those five -- first
20 five lines have had some notation if there was a
21 message left?

22 A. Yes.

23 Q. So the absence of any notation means
24 there was no message left, there was no answer? I
25 guess if there's no answer you couldn't leave a

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1 message; right?

2 A. Right.

3 Q. I guess those questions were silly, I'm
4 sorry.

5 The next line is the one -- the fifth
6 one that says HRG, GC.

7 A. Yes.

8 Q. And that refers to -- in July there was
9 a call placed at 11:26, I assume that's a.m., and
10 shows the phone number and says, "left message,
11 answering machine." Do you see that?

12 A. Yes, I see that.

13 Q. So where it says "left message,
14 answering machine," is that a prerecorded message
15 or a live message or can you not tell?

16 A. That was an -- I believe that's a
17 prerecorded message that was left.

18 Q. Okay. That prerecorded message would
19 not have identified the caller as ARS at that
20 call?

21 A. That's correct.

22 Q. Would it have -- it would have
23 identified HRRG?

24 A. Yes, it would have.

25 Q. Okay. To be clear, when you mentioned

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1 before some of the lines go onto the next line, I
2 assume it's spacing?

3 A. Yes.

4 Q. That's a two-line entry for one note;
5 correct?

6 A. Yes.

7 Q. Now, the next following line, which
8 shows the date of July 24, 2015 at 11:26, is that
9 still relating to the same message?

10 A. I believe so.

11 Q. Do you know what it means when it says
12 "active account"?

13 A. I see the line you are referring to. I
14 believe it is, but I'm not a hundred percent sure
15 of that.

16 Q. Okay. The next line, which is -- the
17 internal date there is July 28, 2015?

18 A. Yes.

19 Q. Do you see it refers to letter number
20 seven, final notice?

21 A. Yes.

22 Q. Is that a letter sent to the Levins?

23 A. These are still referencing
24 transactional information that was imported into
25 ARS from HRRG's system notes. And that final

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1 notice "S" is a note pertaining to a letter sent
2 by HRRG to the Levins, yep.

3 Q. And would that have been -- is there a
4 way to tell from these notes whether that was the
5 first letter that HRRG sent to the Levins?

6 A. Is there a way to tell from these notes
7 that is --

8 Q. Can you --

9 COURT REPORTER: One at a time.

10 A. -- by reading? It's not a first
11 notice. It's a final notice, it's not a first
12 notice.

13 Q. So a fair implication from this
14 information is that there was at least one letter
15 prior to this letter that HRRG sent?

16 A. Yes.

17 Q. Is there any way you can tell from this
18 information how many were previously sent?

19 A. No. I'm looking back at prior notes,
20 and I can tell from looking at the prior notes
21 that there were -- there was an "A" notice sent,
22 there was a "B notice" sent prior to this. So
23 there were two notices prior to this final notice
24 that went out that are indicated in these imported
25 notes --

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1 Q. Okay.

2 A. -- you are looking at.

3 Q. So let me ask you this, going back down
4 to ARS7, is that "A" notice, is that the entry on
5 1-27-15?

6 A. Yes.

7 Q. And is the "B" notice on 3-3-15?

8 A. Yes.

9 Q. Just to state what I think is obvious,
10 obviously the "A" notice and "B" notice made no
11 mention of ARS; correct?

12 A. Correct.

13 Q. On the -- picking up where we left off.
14 There's a line that says -- it starts requested;
15 do you see that? And it looks like it's OLT7
16 index; do you see that line?

17 A. Yes.

18 Q. Is that referring to a different letter
19 form than the letter 7?

20 A. No.

21 Q. It's the same?

22 A. It's part of that. Yeah, it's just the
23 continuation of that line --

24 Q. Got it.

25 A. -- from above.

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1 Q. Does the -- on ARS7, remember there's
2 the list of calls placed of 67, it was up there?

3 A. Okay. I'm on ARS7. Where are we
4 looking?

5 Q. Calls.

6 A. Okay.

7 Q. And it's a 67.

8 A. Yes.

9 Q. And you testified those were the number
10 of calls placed?

11 A. Call attempts is what I explained.

12 Q. Call attempts, you're right. I
13 apologize. The call attempts. Is that count,
14 that number 67, does that include the ones that
15 were imported from HRRG or is that 67 just the
16 call attempts by ARS?

17 A. I'm not sure. I believe it's just ARS.

18 Q. So we started talking about this letter
19 7 on that one line, and then there's a series of
20 entries that are on July 28th at 11:30 p.m.

21 MR. SCHEUERMAN: We are back on 8?

22 MR. STERN: Yes, sorry, back on 8. I
23 apologize for not saying that.

24 BY MR. STERN:

25 Q. There's a handful of lines that have

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1 that same date. Again, I assume I'm correct that
2 those all refer to the same -- or notes about the
3 same letter being sent; correct?

4 A. We are still in the imported --

5 Q. Yeah, the imported ones.

6 A. -- notes? And what line are we talking
7 about after requested? Old --

8 Q. The line --

9 COURT REPORTER: One at a time.

10 MR. STERN: Sorry.

11 BY MR. STERN:

12 Q. The line immediately above requested,
13 because the date and time is July 28th at 11:30.

14 A. Yes.

15 Q. And all the ones that continued down,
16 and they are contiguous, that have that entry of
17 July 28, 11:30, all relate to our notes about the
18 sending of that one letter?

19 A. Yes.

20 Q. So we get down to -- there's two
21 entries for July 29, 2015. It appears the first
22 one is still about that same letter; is that
23 correct?

24 A. Yes.

25 Q. And what's the second one on July 29th,

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1 it has the time of 9:04?

2 A. I'm not sure what that means.

3 Q. Maybe hopefully I can do these by -- in
4 a group. There's a series of ones that start on
5 September 9th at 10:58 and go through to November
6 9th at 8:55. Are all those notes concerning calls
7 that were attempted?

8 A. They are either notes concerning a call
9 that was attempted when the account was with HRRG
10 or a continuation of the preceding line.

11 Q. It actually looks like, in looking at
12 it, that there are -- they come sort of in pairs.

13 A. Yes.

14 Q. So it refers to four different phone
15 calls that were attempted?

16 A. That's what it appears to me, yep.

17 Q. And in each of those it reflects a
18 message was left; correct?

19 A. Yes.

20 Q. And in each of those four calls the
21 message that was left identified the caller as
22 HRRG and not ARS; correct?

23 A. Yes.

24 Q. Now, the first entry on November 11th,
25 what does that mean, "stop zero letters"?

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1 A. It's part of the process of returning
2 accounts to the billing system.

3 Q. So I see there's -- I'm going to
4 estimate 10, 15 lines that are all dated November
5 11th at 10:42. Is that -- all those notes relate
6 to the returning of the account to the billing
7 system?

8 A. Yes.

9 Q. Then we get to November 24th. It looks
10 like there's three entries on November 24th at
11 9:04; do you see those?

12 A. Yes.

13 Q. And do those relate to then placing the
14 account with ARS?

15 A. Yes.

16 Q. Can you turn to ARS9, the next page?
17 Do you see beginning -- there is entries that
18 start on December 10th of 2015?

19 A. Yes.

20 Q. And then there seems to be similar
21 notations through the end of the page of paired
22 lines. Do each of those paired lines reflect a
23 different call attempt in which a message was left
24 on the Levins' answering machine?

25 A. I believe so.

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1 Q. And in each of those call attempts they
2 would have identified ARS as the caller?

3 A. Yes, I believe so.

4 Q. Is the same true for -- with respect to
5 the paired lines and the leaving messages as
6 reflected on ARS10?

7 A. Yes.

8 Q. And although on ARS11 not all of them
9 are paired lines but there looks to be like the
10 majority of those lines are the same kind of
11 paired lines, those also reflect that messages
12 were left?

13 A. Only down to, I think, the fifth line,
14 and then you have PJB.

15 Q. I see that. But then it picks up on
16 9-20, do you see that, for the rest of the page?

17 A. Yes.

18 Q. That's why I said the majority of them,
19 just looking at it. There's sort of three groups,
20 if you will --

21 A. Yes.

22 Q. -- the first five or six lines, and
23 then about four lines, and then probably more than
24 half of the rest of the page.

25 A. Yes.

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1 Q. Let's talk about -- again, I assume if
2 we went through them one by one it would be the
3 same testimony, that those represent call attempts
4 in which a message was left and the message
5 identified the caller as ARS?

6 A. Yes.

7 Q. And those would all be the same
8 prerecorded messages?

9 A. I'll say I think so.

10 Q. Okay.

11 A. Only because I don't know if there were
12 potentially other messages that may have been left
13 at some point in time. But it does seem to
14 indicate that those are the same messages.

15 Q. When you were describing a campaign
16 before and the process of the dialer making a call
17 and then if there's a live answer it hooks up the
18 agent that's been dormant the longest; right? You
19 remember describing that?

20 A. That's been waiting the longest.

21 Q. What happens when it detects that it's
22 an answering machine? Is there a standard
23 procedure that happens when it's an answering
24 machine, or is it -- does it vary? What happens?

25 A. When an answering machine is detected

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1 by the system it looks at the settings in the
2 specific calling campaign and chooses the action
3 it performs based on the calling campaign
4 instructions definition.

5 Q. Whether the account is with HRRG or
6 ARS, and obviously if it's ARS it's with HRRG, but
7 either way, is there ever a time when if an
8 answering machine is detected that it just hangs
9 up and doesn't leave a message?

10 A. Yes.

11 Q. I mean, that's intentional, that
12 sometimes you do that?

13 A. Yes.

14 Q. On page ARS11, the line entries that
15 are not records of call attempts, are those all
16 information relating to scrubs?

17 A. No.

18 Q. Which ones were not? Are any of them
19 relating to scrubs?

20 A. Yes.

21 Q. Can you indicate which ones are and
22 which ones are not?

23 A. There are lines that have the initials
24 LN.

25 Q. Yes.

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1 A. LN stands for Lexus Nexus. That is
2 indicative of a different process where we are
3 looking for demographic information such as an
4 address update or a phone update.

5 Q. Okay. And the others are scrubs?

6 A. Yes.

7 Q. Obviously the ones that say banco,
8 that's a scrub?

9 A. Yes.

10 Q. If you turn to ARS12, the entries up
11 through and including the January 19, 2017, those
12 reflect call attempts where there was an answering
13 machine and a message -- prerecorded message was
14 left; correct?

15 A. Yes.

16 Q. And those messages identified the
17 caller as ARS?

18 A. Yes.

19 Q. And then there's one on February 7,
20 2017, does that notation mean there was no message
21 left?

22 A. Yes.

23 Q. And then there's two lines on February
24 10th of 2017, does that refer to notes that were
25 entered as to the statute of limitations date on

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1 that debt?

2 A. Yes, I believe so.

3 Q. And then the remaining entries are on
4 February 17th of 2017, which is the date the
5 report was created. Is that where the information
6 was put in about the fact that the Levins had
7 counsel?

8 A. Yes.

9 Q. Is there anything in the printout of
10 the notes which reflects whether there was any
11 credit reporting on this day?

12 A. No, there isn't anything that I see
13 that indicates credit reporting.

14 Q. Does the absence of that information
15 indicate there was no credit reporting?

16 A. I don't know.

17 Q. Okay. Does ARS, excuse me, a debt
18 that's placed with ARS -- strike that.

19 Does ARS do any credit reporting --

20 A. Yes.

21 Q. -- for any accounts?

22 Do they do it for all accounts?

23 A. No.

24 Q. And what about accounts placed just on
25 HRRG but not with ARS, are there -- are those --

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1 are there accounts that are credit reported?

2 A. No.

3 Q. HRRG does not credit report?

4 A. That's correct.

5 MR. STERN: Let's take a ten-minute
6 break.

7 MR. SCHEUERMAN: Are we getting out of
8 here today?

9 MR. STERN: That's one of the things I
10 want to look at and go over where I'm at. We
11 covered a lot of stuff with going through the
12 account notes, so let me see what I have got.

13 (Whereupon there was a recess in the
14 proceedings from 3:08 to 3:24 p.m.)

15 BY MR. STERN:

16 Q. There was an account number that's on
17 the account notes that is an account number that's
18 used by ARS to identify this debt; correct?

19 A. Can you be more specific? Can we make
20 sure that we are talking about the same thing?

21 Q. In D-2, the first page of the printed
22 account notes.

23 A. Okay. Yes, I have that.

24 Q. There is an account number listed on
25 there.

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1 A. Yes.

2 Q. When the debt was listed with HRRG
3 prior to it being listed with ARS, did it have the
4 same account number?

5 A. No.

6 Q. Is there any information in the account
7 notes or other documents that you have or that you
8 reviewed that identifies the account number that
9 was used by HRRG before -- when it was collecting
10 it before it was assigned to ARS?

11 A. I'm not sure. There is a -- the answer
12 is I'm not sure.

13 Q. Okay.

14 A. The client account number appears on
15 this exhibit here.

16 Q. The client account number. I assume
17 the client had many debts that were placed with
18 HRRG and with ARS under that account number --

19 A. No.

20 Q. -- under the client number.

21 A. That's a client number, okay. There's
22 a client code and a client account number.

23 Q. I'm sorry. So which were you referring
24 to, client account number --

25 A. The client account number is --

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1 Q. The account number that the creditor or
2 the billing company refers --

3 A. Refers to this individual account.

4 Q. And so ultimately, the reason I was
5 asking whether there was an account number when it
6 was on the HRRG side is whether you would be able
7 to get a printout of the account notes of this
8 account when it was on the HRRG side.

9 A. Yes, I can get that.

10 Q. Okay. And to your knowledge, those
11 account notes would still be on the system or
12 retrievable from archives?

13 A. I believe so.

14 MR. STERN: Mark this D-4.

15 (Exhibit D-4, Transcript of message,
16 marked for identification, as of this date.)

17 BY MR. STERN:

18 Q. I'm showing what is marked as D-4.
19 I'll tell you it's a document that I prepared, but
20 it is taken from the complaint that was filed in
21 this case, which is a -- which contains a
22 transcript of the message that -- or of the --
23 there were three messages that we identified in
24 the complaint or we identified to -- our clients
25 had I guess preserved and retrieved that all sound

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1 identical, I'm representing to you they sound
2 identical, and that this is the transcript of
3 those messages. What I have done though is break
4 them out by sentences and just in bracketed
5 numbers so in discussing it we can refer to
6 particular sentences, that's why I did it that
7 way.

8 What I'm going to do first is before we
9 go any further is play one of the messages that I
10 have so you can be satisfied that, you know -- or
11 correct if there is any correction that needs to
12 be made in this transcript that's marked as D-4.

13 MR. SCHEUERMAN: I object to the form.
14 Again, this is counsel's document that he
15 prepared. It's not something that is in
16 discovery. But go ahead.

17 Before you play. What are you playing
18 it from, the complaint that was filed?

19 MR. STERN: The complaint filed -- does
20 the complaint that was filed have an embedded
21 file?

22 MR. SCHEUERMAN: Whatever you are
23 playing it from just identify it.

24 MR. STERN: Assuming it would work,
25 there's a sound file embedded in the

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1 electronically filed or amended complaint,
2 which is document 9 on the court's docket.
3 This is -- the link to it is adjacent to
4 paragraph 32 of the amended complaint.
5 That's what I'm going to double click on.

6 I am going to play one of the
7 electronic files that I provided in discovery
8 instead because the complaint embedded did
9 not work that I had provided in discovery to
10 Mr. Scheuerman.

11 (Audiotape played.)

12 BY MR. STERN:

13 Q. Did you hear that?

14 A. Yes.

15 Q. Does that sound like the prerecorded
16 messages that ARS used?

17 A. Yes, it sounds like it. It is missing
18 at the beginning of it I think the words "this
19 is."

20 Q. Okay. Was there an -- in creating the
21 prerecorded message, were there any constraints,
22 that you are aware of, in terms of how long in
23 terms of the time the message could be?

24 A. I'm not aware of any. I'm sure there
25 are, I'm not aware of any.

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1 Q. If you would turn to I think D-2, ARS4.
2 It's the letter.

3 A. Yes.

4 Q. I'm just pointing that out to recall to
5 you your earlier testimony that the letters ARS
6 was put in parenthesis in the body of the letter
7 as suggesting -- as indicating that that was going
8 to be a shortened form of ARS Account Resolution
9 Services; right? Do you recall that?

10 A. Yes.

11 Q. So that someone reading that letter,
12 when they would see ARS standing alone that they
13 would understand from that letter that ARS meant
14 ARS Account Resolution Services; correct?

15 A. Correct.

16 Q. And they could do that without having
17 to call ARS or HRRG; correct?

18 A. Correct.

19 Q. And they could do that without going to
20 any website; correct?

21 A. Correct.

22 Q. Is there anything in the telephone
23 message that would alert the listener to the fact
24 that ARS was a shortened version of ARS Account
25 Resolution Services?

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1 A. Can you repeat the question?

2 MR. STERN: Can you read that back?

3 (Record read.)

4 MR. SCHEUERMAN: I object. How is this
5 related to the true name issues? It seems to
6 be related to your issue that your clients
7 were confused when they got the message. How
8 is this related to true name? That's my
9 objection.

10 MR. STERN: You are seriously raising
11 that? I'm flabbergasted that you would make
12 that objection to that question. Please step
13 out, Mr. Friedlander.

14 (Witness leaves the room.)

15 MR. STERN: The court said that the
16 three factual issues is whether, quote
17 unquote, ARS is HRRG's full business name, a
18 commonly used acronym of its registered name,
19 ARS Account Resolution Services, or a name
20 under which it usually transacts business.

21 MR. SCHEUERMAN: Okay.

22 MR. STERN: Okay. Well, so it used
23 ARS. I'm trying to find out --

24 MR. SCHEUERMAN: Can you read back the
25 question?

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1 MR. STERN: He identified a letter
2 where it said this is what ARS is. All I did
3 was ask him is -- you know, without having to
4 place a phone call, without having to go on
5 the Internet, that on the face of the letter
6 he's testified that you could know that ARS
7 means ARS Account Resolution Services. So I
8 asked him if there's anything in this
9 telephone message which would alert the
10 listener -- to inform the listener as to
11 whether ARS means ARS Account Resolution
12 Services. That goes directly to whether it's
13 a commonly used acronym of it's a registered
14 name.

15 I think this is a critical issue. The
16 fact that you can even suggest that this
17 might be outside the scope of discovery is --
18 I can't even get my head around that.

19 MR. SCHEUERMAN: The fact that it uses
20 it in the thing is what proves -- is what is
21 relevant in terms of discovery for the judge.
22 The fact whether it alerts it to what the
23 actual name -- how does that make any sense?

24 MR. STERN: You argued to the district
25 court and court of appeals that the inclusion

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1 of the phone number and the inclusion of the
2 web address allowed the consumer to identify
3 the caller.

4 MR. SCHEUERMAN: That's a different
5 issue. That's a totally different issue.
6 That's whether the caller -- whether the
7 consumer would be confused. It's not the
8 issue of whether they typically transact
9 business as ARS or whether it's a commonly
10 acronym.

11 MR. STERN: Whether they are confused
12 is still part of the case.

13 MR. SCHEUERMAN: It's not. That's not
14 the true name. The judge said it's the true
15 name issue. It's not whether it's confused.

16 MR. STERN: And the true name issue --

17 MR. SCHEUERMAN: It's not whether they
18 would associate the name with another debt
19 collector as you pointed out, that could be a
20 germane issue later. But the true name issue
21 is whether it's their full business name,
22 whether they usually transact business, or
23 whether it's a commonly used acronym. So
24 that question doesn't relate to that. It
25 relates to your issue as to whether the

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1 consumer would think it would be another debt
2 collector, which is a different issue.

3 MR. STERN: So the third circuit
4 dealing with the true name issue said we
5 adopt FTC commentary; correct?

6 MR. SCHEUERMAN: That's not the --
7 Judge Williams narrowed it down to those
8 issues in the true name issue.

9 MR. STERN: No. Her order said the
10 true name issue is what she said.

11 MR. SCHEUERMAN: The order before that
12 says those are the issues. Whether it's --

13 MR. STERN: No, it's not what she said.

14 MR. SCHEUERMAN: -- ARS -- whether it's
15 the full business name, the name under which
16 it transacts business, or commonly used
17 acronym. With this perspective -- that's
18 what discovery is limited to.

19 MR. STERN: That's not what -- her
20 order says --

21 MR. SCHEUERMAN: This has attorney
22 notes on it.

23 COURT REPORTER: One at a time.

24 MR. STERN: Fine. Identify what you
25 are reading from.

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1 MR. SCHEUERMAN: The 11-7-2018 order.

2 MR. STERN: The 11-7-18 order says --
3 gives reasons and then says, "It is with this
4 perspective," so in other words that informed
5 the court, "that the court views the parties'
6 dispute relating to the discovery being
7 sought in the case at this juncture and
8 determines that the discovery is limited to
9 that which is necessary to the claims and
10 defenses under section 1692(e)(14), as this
11 is the only claim that remains in the case."

12 So she didn't limit it to the issues.
13 Her discussion of the third circuit is what
14 informed her to say the discovery is limited
15 to (e)(14).

16 MR. SCHEUERMAN: I disagree.

17 MR. STERN: You can disagree, that's
18 what it says.

19 MR. SCHEUERMAN: The subsequent order
20 says it's limited to the true name issue.
21 And the third circuit, they identified the
22 true name issue is whether it's the true name
23 under which they usually transact business or
24 commonly used acronym.

25 MR. STERN: That's not what they

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1 limited it to.

2 MR. SCHEUERMAN: Which is what the
3 judge's order --

4 MR. STERN: You have -- can you mark
5 the question that was asked about it?

6 Do you have a speakerphone so we can
7 call the judge?

8 (Phone call with Judge's paralegal.)

9 MR. STERN: This is Phillip Stern. I'm
10 calling from the deposition Levins versus
11 Healthcare Revenue Recovery Group. We have
12 an issue -- a question and objection that I
13 would like the Judge to rule on.

14 PARALEGAL: What case is this
15 regarding?

16 MR. STERN: It's Levins versus Health
17 Care Revenue. It's case 17928.

18 PARALEGAL: Okay. And I'm sorry, you
19 are in a deposition of whom?

20 MR. STERN: It's the deposition of the
21 corporate representative for the defendant.

22 PARALEGAL: Okay. And you are in the
23 conference room now and you have me on
24 speaker?

25 MR. STERN: Yes.

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1 PARALEGAL: Okay. And you have a court
2 reporter in the room as well?

3 MR. STERN: Yes. And the court
4 reporter is ready to read back the question
5 and also to record.

6 PARALEGAL: Okay. All right. Let me
7 put you on hold, get -- the judge is
8 finishing up her initial conference in
9 another matter so you may have to hold for a
10 few minutes.

11 MR. STERN: Okay, thank you.

12 BY MR. STERN:

13 Q. Do you have D-3, that's the answers to
14 interrogatories?

15 A. Yep.

16 Q. Do you have a pen? On D-4, the
17 transcript, D-4 is that transcript.

18 A. Yes.

19 Q. You said you think on the first line
20 the words "this is" is missing?

21 A. Yes.

22 Q. Could you just sort of write that in,
23 write that in, carrot that in?

24 A. (Witness complies.)

25 Q. You are comfortable that that is now an

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1 accurate transcript of what the message that you
2 understood was left?

3 A. Yes.

4 Q. So if you could go to D-3, the
5 interrogatories.

6 A. Yes.

7 Q. If you would turn to interrogatory
8 number 8.

9 A. Uh-hum.

10 Q. And for the record, I'm going to read
11 the question or the request. First, 8, "State
12 each name, acronym, and abbreviation under which
13 Healthcare Revenue Recovery Group, LLC has
14 identified itself to others since its formation,
15 and for each include dates when the name, acronym,
16 or abbreviation was first used and last used."

17 You see then below that there is an
18 answer, and the first word it says "objection," do
19 you see that?

20 A. Yes.

21 Q. And then there's -- the next sentence
22 states an objection?

23 A. Yes.

24 Q. And then the next sentence starts,
25 "Without waiving same," in other words, without

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1 waiving the objection, it says, "ARS Account
2 Resolution Services began operations in January
3 2009."

4 Do you see that?

5 A. Yes.

6 Q. I believe you testified that HRRG was
7 formed in 2004 and started operations doing debt
8 collection shortly after that, I assume, before
9 the end of 2005; is that an accurate time frame?

10 A. Yes.

11 Q. The operations -- so HRRG was operating
12 without this ARS business unit until January of
13 2009; correct?

14 A. Yes.

15 Q. So what it's saying here is that ARS
16 Account Resolution Services began operations.
17 That means just that one business unit, not that
18 HRRG began operations in 2009?

19 A. That's correct.

20 Q. Okay. If you look down to now number
21 10, what's -- why don't you read it to yourself,
22 the question and answer, so you're more familiar
23 with it?

24 A. Yes.

25 Q. And just rather than reading the whole

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1 thing, the last, sort of, phrase -- the last
2 sentence says, "And since then," you see that?

3 A. Yes.

4 Q. "And since then" is referring to since
5 January of 2009; correct?

6 A. Yes.

7 Q. "And since then, ARS is the name under
8 which it usually transacts business with the
9 public." Do you see that?

10 A. Yes.

11 Q. The pronoun "it," does that refer to
12 HRRG or refer only to the business unit that
13 operates as ARS Account Resolution Services?

14 A. That refers only to the business unit
15 ARS.

16 Q. With respect to the same question
17 number 8, it --

18 MR. SCHEUERMAN: Which question?

19 MR. STERN: I'm sorry, question 10. I
20 apologize, question 10.

21 BY MR. STERN:

22 Q. It talks about transacts business with
23 the public. Do you see that at the end of the
24 sentence?

25 A. Yes.

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1 Q. You understand this is your -- the
2 answer that you certified to; do you understand
3 that?

4 A. Yes.

5 Q. What did you mean by "the public"
6 there?

7 A. The consumers who had accounts that
8 reached the later stage of delinquency, vendors
9 through which we did business, our website.

10 Q. When you say "our" --

11 MR. SCHEUERMAN: Can you let him
12 finish? Go ahead. Were you done?

13 THE WITNESS: No.

14 MR. SCHEUERMAN: Go ahead.

15 A. The website, the notices that we sent
16 out to consumers. I think that's it.

17 MR. STERN: Can you read the answer
18 back?

19 (Record read.)

20 BY MR. STERN:

21 Q. You used the first person plural when
22 you said "we" or "our." I think when you are
23 referring to vendors you said, "we did business
24 with." When you say "we," do you mean HRRG or do
25 you mean the ARS business unit?

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1 A. I'm answering for the ARS business
2 unit.

3 Q. It's the same for each time you used
4 "our" or "we," that was referring just to the ARS
5 business unit; correct?

6 A. I believe so.

7 Q. I mean, I can have her read back the
8 answer again if you would like.

9 A. Yeah, let's read it back again.
10 (Record read.)

11 A. Can you start with the question that
12 preceded that response?

13 THE JUDGE: Hello.

14 MR. STERN: We are here, Your Honor.
15 While we were waiting we put it on mute for a
16 moment.

17 THE JUDGE: Okay.

18 MR. STERN: That's why, I'm sorry, I
19 didn't jump on real quick.

20 This is Phillip Stern, plaintiff's
21 counsel. I can certainly give the court
22 whatever background it needs, but we have
23 been deposing Mr. Friedlander, the 30(b)(6) 6
24 representative for Healthcare Revenue.

25 And I asked a question that related to

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1 the voicemail message that was left. Earlier
2 in the deposition there was examination about
3 a letter that had been sent to my clients by
4 the defendant, about eight months prior to
5 the messages, where the letter, and I can
6 cite -- it is on the docket if Your Honor
7 wants to view it. But essentially the letter
8 opens by saying that the letter is from ARS
9 Account Resolution Services, which is the
10 full alternate name that's been registered
11 with the State of New Jersey. And then in
12 parenthesis after that name said ARS. And
13 the witness testified that that ARS in
14 parenthesis was -- indicated that it was a
15 short name of the full alternate name that
16 was in the letter. So that wherever ARS
17 appeared later in the letter the reader would
18 know that it was referring to ARS Account
19 Resolution Services.

20 And the witness testified that that way
21 the reader would not have to call the phone
22 number or go to the website to find out who
23 was sending them the letter.

24 The argument has been made by defendant
25 that -- when you get to the message that,

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1 which never mentioned -- it did not mention
2 the full alternate name that was the
3 registered alternate name -- that it just
4 says ARS. But the argument has been made
5 that had they called the phone number or gone
6 to the website they could have found out.

7 So I asked a question, and the court
8 reporter is prepared to read it back as a
9 follow-up to that, which counsel objects to
10 as being outside the scope of the discovery
11 limitations. And my view is it actually goes
12 to the very core of what the litigation is
13 about. So I'll ask the court reporter to
14 read that question back to, Your Honor.

15 THE JUDGE: Go ahead.

16 (Previous testimony is read.)

17 THE JUDGE: What's the objection to
18 that?

19 MR. SCHEUERMAN: Your Honor, this the
20 Chris Scheuerman. My objection is that goes
21 to a different issue. Issues were raised in
22 connection with a motion to dismiss that
23 since they were using ARS the consumer would
24 be confused and think it was from another
25 debt collector and, therefore, violate the

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1 FDCPA. In reading Your Honor's decision or
2 order yesterday that says it's limited to the
3 true name, and then the November 2008 order,
4 the third circuit drew the narrow issue is
5 whether -- the issue is whether it's ARS's
6 full name, a name under which it usually
7 transacts business, or a commonly used
8 acronym. So, you know, the fact that they
9 just use it in the message, I think that is
10 obviously discoverable. But whether the
11 plaintiff would be confused, that's a
12 different issue than what the narrow issue,
13 respectfully, my interpretation of Your
14 Honor's order gives. It goes to a different
15 issue. It doesn't go to whether it's the
16 name they usually transact business using or
17 whether it's a commonly used acronym.

18 THE JUDGE: Counsel, you can make
19 whatever arguments you want to make about the
20 fact that after -- I think this question, as
21 I understand it, what I heard was is there
22 anything in the voice message to suggest to
23 you that it was ARS. You are analyzing the
24 question and potential answer. You are not
25 objecting based on my orders. That's not

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1 what we are here for. The deposition is for
2 discovery to obtain factual information, and
3 that's question is pertinent.

4 What's the next question?

5 MR. STERN: Your Honor, the only other
6 issue was something we had earlier, I was
7 trying to understand how this business
8 operates. And it's a little different than
9 what I, sort of, intuitively thought about a
10 debt collector. It doesn't act -- what I
11 learned through the deposition, it doesn't
12 act independently. Apparently it's one
13 company amongst a group of companies --
14 related companies that are under some kind of
15 either common ownership or umbrella or -- but
16 some kind of structure, but counsel would not
17 let me probe into this, where they sell
18 billing and collection services, the whole
19 gamut, to healthcare providers. So the
20 healthcare provider -- so all the billing
21 from the get-go through when it's in default
22 and delinquency. So there are companies --
23 related companies that are just billing
24 companies. And, in fact, HRRG began as being
25 severed as doing the debt collection work

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1 severed off from a billing company that did
2 both billing and collections. And that goes
3 back over 20 years ago. And that -- so HRRG
4 does collection once the billing company
5 feels that it's at the point where it now has
6 to go to collection. So the account gets
7 transferred. All that's internal. They
8 don't have any outside creditors coming to
9 them to place accounts, that's all within the
10 same family.

11 And then what I also learned is that
12 within HRRG about a third of their business
13 is accounts that HRRG has, sort of, exhausted
14 their efforts and now these are, sort of,
15 like super delinquent debts, and they go to
16 what the witness described as a business unit
17 within HRRG, for which they use the label
18 ARS.

19 I just asked the witness, you know,
20 what's the name of the parent? What's the --
21 is there a name under which or this group or
22 family of companies is called? And counsel,
23 under the same -- based upon Your Honor's
24 orders limiting discovery said I wasn't
25 allowed to get that information.

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1 MR. SCHEUERMAN: He was looking for
2 discovery, it wasn't -- it's not relevant to
3 the issue. First of all, the fact that he
4 can recite all this stuff is that he was able
5 to ask questions about it at the deposition.
6 He was getting into the corporate
7 organization which Your Honor during the call
8 my notes reflect that you specifically said
9 that that was too broad. He was going into,
10 What are the parent companies? Is HRRG a
11 subsidiary of anything? It's not relevant to
12 the narrow issues that Your Honor laid out in
13 her orders.

14 MR. STERN: Your Honor, if I could just
15 briefly --

16 THE JUDGE: Hold on. Plaintiff needs
17 to understand who the defendant is. By
18 giving your recitation, Mr. Stern, I think
19 you already do. I'm not sure what the
20 question is.

21 MR. STERN: Your Honor, all I want to
22 do is put a name on it. I'm thinking of --
23 I'm writing a summary judgment brief and I
24 want to say, you know, HRRG is a member of
25 the Acme family of companies that provided,

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1 you know, billing collection services to the
2 healthcare industry. That's really what I
3 had in mind. I wasn't going that far. I
4 don't need to know who the, you know, CFO is
5 of the corporate parents or whether they are
6 publicly traded or not. I just wanted to
7 know it. Quite frankly, I think knowing this
8 information is probably stuff that ought to
9 be disclosed in a disclosure form anyway.

10 MR. SCHEUERMAN: It is. He can look at
11 my corporate disclosure form. It was filed
12 on the docket, if that's all he wants.

13 THE JUDGE: Right. That's what I
14 thought immediately.

15 MR. STERN: Maybe I didn't look.

16 THE JUDGE: When a corporate defendant
17 files its initial filing they have to do
18 their corporate designation form.

19 MR. STERN: I'm looking at it right
20 now.

21 MR. SCHEUERMAN: I can't -- I think
22 there is a parent company, I can't picture it
23 in my mind. Again, whether there's a parent
24 company and how that -- anything about the
25 parent company, I'm not sure how that relates

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1 to the true name issue of whether ARS
2 typically transacts business as ARS.

3 THE JUDGE: It may not directly satisfy
4 that inquiry, but every party gets to know
5 who the other party is and so -- I'm trying
6 to find the corporate form.

7 MR. STERN: Your Honor, I just looked
8 at the corporate disclosure form, it's docket
9 6. It says that HRRG, the defendant, does
10 not have a parent. But I have a document
11 that I found on -- an Internet document
12 that -- actually one of their vendors who
13 provided them some software technology had
14 them on as a, I guess as a case study. And
15 it says, "Healthcare Revenue Recovery Group,
16 a Division of TeamHealth. One of the largest
17 supplies of outsourced professional staffing
18 and administrative services." So I wanted to
19 ask about --

20 THE JUDGE: You can ask that very
21 limited question.

22 MR. STERN: Okay.

23 THE JUDGE: That's it. That's it.

24 MR. STERN: That's fine. I don't need
25 to explore. That's all I want to find out.

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1 THE JUDGE: The corporate disclosure
2 statement -- the only reason I'm allowing you
3 to do that is because you seem to have opened
4 information or discovered information
5 contrary to the corporate disclosure
6 statement and that's a problem.

7 MR. STERN: Okay. I don't think
8 there's anything --

9 THE JUDGE: But that's it, Mr. Stern.
10 You are not going into anything else just you
11 have articulated a basis for your question
12 that, in fact, goes to the identity of the
13 corporate entity. And that is not within the
14 scope of the limited discovery I talked about
15 but that is essential background information.
16 You get to know who you are seeing and/or who
17 is suing you.

18 MR. STERN: I don't intend to go with
19 any depth. It's one or two questions at
20 most.

21 MR. SCHEUERMAN: Thank you, Your Honor.

22 MR. STERN: Thank you, Your Honor.

23 THE JUDGE: You are welcome. Have a
24 good day.

25 (Witness returns.)

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1 MR. STERN: We are back on the record.

2 BY MR. STERN:

3 Q. I'm going to ask the court reporter to
4 repeat the question that was pending when your
5 counsel objected.

6 (Record read.)

7 A. Not that I see.

8 Q. Is HRRG a subsidiary of another company
9 or corporation?

10 A. No.

11 Q. So it does not have -- there's no
12 parent?

13 A. No.

14 Q. Back to D-3, the interrogatories. If
15 you can go to -- actually, why don't you read to
16 yourself question 21 and the answer, then I have a
17 question for you about the answer.

18 A. Okay.

19 Q. Okay. My question is specific to one
20 sentence, which is the first sentence of the last
21 paragraph of that answer. I think it's on the
22 next page. I'm going to read that sentence for
23 purposes of the record.

24 "In all telephone communications with
25 consumers, defendant's employees exclusively

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1 utilize the 'ARS' name."

2 A. Yes, I see that.

3 Q. When you used the letters ARS you put
4 that in quotes in the answer, did you mean
5 literally just those three letters, ARS, or were
6 you referring -- in other words, does that mean
7 they don't use ARS Account Resolution Services?
8 It says they exclusively used the ARS name. I'm
9 asking, when you say -- I'm asking, does that mean
10 they exclusively use only those three letters or
11 when you used those three letters you are
12 referring to both those three letters and the full
13 ARS Account Resolution Services?

14 A. I mean either one.

15 Q. Okay. Right. So they use either one
16 exclusively?

17 A. Right.

18 Q. I just didn't know if it was more
19 limited than that.

20 Are you aware that this case was
21 initially dismissed and went on appeal and the
22 appellate court reversed the decision and now it's
23 back where we are litigating it now?

24 A. Yes.

25 Q. Were you ever provided a copy of the

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1 decision from the appellate court?

2 A. Yes.

3 Q. Do you recall reading it?

4 A. Yes.

5 Q. In the court's decision, I'm going to
6 read from the court's decision. I want to ask you
7 a question about it.

8 A. Is it in any of the exhibits that we
9 had?

10 Q. It's not, but I can mark one and give
11 it to you. That would probably be easier.

12 (Exhibit D-5, Court's decision, marked
13 for identification, as of this date.)

14 BY MR. STERN:

15 Q. On D-5, if you look at the third
16 page --

17 MR. SCHEUERMAN: What page?

18 MR. STERN: The third page.

19 BY MR. STERN:

20 Q. There's page numbers on the bottom
21 right corner. So on page 3, it's the paragraph
22 that follows the indented quote that begins, "At
23 the time the Levins," do you see that?

24 A. Yes.

25 Q. If you go down to three or four lines

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1 to the right, it's the last sentence, it says,
2 "While it has registered," do you see that?

3 A. Yes.

4 Q. I'm going to read that sentence.

5 "While it has registered the name ARS Account
6 Resolution Services in New Jersey, HRRG has
7 neither registered the standalone name ARS, nor
8 taken any other legal steps to do business under
9 that specific name."

10 Are you aware of any facts which
11 contradict the statements made in that sentence?

12 MR. SCHEUERMAN: Objection to form. Do
13 you want me to put the form objection on the
14 record or do you want me to tell him to
15 leave?

16 MR. STERN: If it's just to form
17 then -- you don't have to go into substance.

18 MR. SCHEUERMAN: I respect how you do
19 it. I do it a different way, I like to
20 preserve the record. I'm going to put it on
21 the report. He can stay or leave.

22 MR. STERN: Have him step out. I don't
23 know what you are going to say.

24 (Witness leaves the room.)

25 MR. SCHEUERMAN: I just note that the

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1 opinion references legal steps and is calling
2 for a legal conclusion. I don't know if this
3 witness is qualified to answer.

4 MR. STERN: Okay.

5 (Witness returns.)

6 BY MR. STERN:

7 Q. Do you remember the question?

8 A. No.

9 Q. So if you want to take a moment, maybe
10 reread that last sentence. You know which one?

11 A. "While it has registered the name?"

12 Q. Yes.

13 A. Okay.

14 Q. Are you aware of any facts which
15 contradict any of the statements made in that
16 sentence?

17 A. I don't think so.

18 Q. When you say you don't think so, that
19 suggests you might have some doubt. What's the
20 basis for your doubt?

21 A. Yeah, because I don't know if filing
22 for d/b/a is the same or different from
23 registering.

24 Q. Okay. So I'm happy to clarify that.
25 I'm willing to treat that registering that name is

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1 the same as filing a d/b/a. In other words, I'm
2 saying you can assume that --

3 A. Registering -- saying it's registered
4 is the same if we filed for the d/b/a.

5 Q. Yes, I'm saying that's the same. You
6 can treat that as the same in terms of
7 understanding this.

8 MR. SCHEUERMAN: Objection.

9 A. Okay, then this might be wrong.

10 Q. What would be wrong?

11 A. Because I think we have and had at that
12 time filed for a d/b/a under the name ARS Account
13 Resolution Services.

14 Q. I think the sentence is saying that you
15 did register that name in New Jersey. It's saying
16 while it has registered the name in New Jersey.

17 A. Yep. Okay.

18 Q. Then it says -- what it's saying is
19 what HRRG did not do is, which is neither
20 registered the standalone name ARS, nor taken any
21 other legal steps to do business under that
22 specific name. I think they mean that specific
23 name is the standalone ARS.

24 A. All right. Then in this case then I
25 would say --

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1 Q. This is a truthful statement?

2 A. Yes.

3 Q. Are you aware of any debt collectors
4 that use ARS as part of their name or ARS as a
5 shortened name in the same way that ARS Account
6 Resolution Services uses ARS as a short name?

7 A. Yes. Yeah.

8 Q. Do you recall who they are?

9 A. I know there's an ARS National.

10 Q. Okay.

11 A. I don't know if they use the ARS alone.

12 Q. Okay. The last sentence of the next
13 paragraph, I'll read it aloud. If you want to
14 take more time to look at it, it says, "And if one
15 ignores the warning an accesses the site, the
16 website begins tracking and storing information
17 about the computer user." Do you see that?

18 A. Yes.

19 Q. To your knowledge, does -- if someone
20 accesses the ARS website, does it track and store
21 information about that user?

22 A. I believe so.

23 MR. STERN: Let's take a break. I may
24 be done. If I have anymore questions it's a
25 couple follow ups.

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1 (Whereupon there was a recess in the
2 proceedings from 4:39 to 4:45 p.m.)

3 BY MR. STERN:

4 Q. The accounts which -- it's a followup
5 question to something we talked about earlier
6 today. You explained there are -- that the
7 billing customers, I think you said of HCFS, and
8 you referred to OSB clients.

9 A. Yes.

10 Q. Those are the entities that would be
11 referring -- placing accounts with HRRG and/or the
12 ARS business unit; am I right? Did I get that
13 right?

14 A. They are a small portion of clients
15 whose physicians may not be contracted with
16 TeamHealth -- contracted through TeamHealth.

17 Q. Who is TeamHealth?

18 A. The ultimate parent of HCFS.

19 Q. But it's not a parent of -- obviously,
20 because you said there's no parent -- of HRRG?

21 A. No.

22 Q. But HRRG -- maybe in my question I may
23 have overemphasized the OSB client. I meant was,
24 I was trying to generally describe the universe of
25 HRRG's clients. And HRRG's clients, that would

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1 include HRRG and ARS?

2 A. Yes.

3 Q. Those clients are HCFS -- is it HCFS or
4 it's the billing customers of HCFS are included in
5 that group?

6 A. Those are the customers of HCFS, the
7 billing customers.

8 Q. Right. Those billing customers are
9 HRRG clients?

10 A. Yes.

11 Q. Are there written contracts between
12 HRRG and those clients?

13 A. No.

14 Q. Is there any document, contract, or
15 agreement that governs the relationship between
16 HRRG and those clients?

17 A. There may be with HCFS.

18 Q. Does HRRG have a contract with HCFS?

19 A. I don't think so.

20 Q. Okay. That's ultimately what I was
21 getting at, I wanted to know about contracts with
22 clients.

23 Is there someone at HRRG who is -- who
24 receives any complaints from -- before I ask that.
25 To be clear, when we refer to "customers," those

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1 are the people who, according to your records, owe
2 money; correct? That's the term you used,
3 "customers"?

4 A. We use consumers.

5 Q. Consumers, okay. Is there an
6 individual, or position, title of who oversees the
7 complaints made by consumers about either the
8 conduct of HRRG or ARS?

9 A. Are you asking about what agency
10 oversees consumer complaints?

11 Q. Not what agency but --

12 A. Or are you asking --

13 Q. When HRRG receives a complaint from a
14 consumer, in this particular case by way of -- for
15 instance, in this case, you said you are the
16 person who is in charge of this case. Is there --

17 A. The respondents to complaints that are
18 received are the AVPs, the assistant
19 vice-presidents.

20 Q. Who report directly to you?

21 A. Yes.

22 Q. Okay. And is there one AVP for ARS?

23 A. Yes.

24 Q. Is there one or more for the non-ARS
25 HRRG work?

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1 A. There were two.

2 Q. So one on the HRRG side and one on the
3 ARS side?

4 A. No, two on the HRRG side.

5 Q. Okay. And they handle -- that includes
6 both formal complaints that they get served?

7 A. Yes. They are handling complaints that
8 come in the mail and complaints that come through
9 the CFPB or the Better Business Bureau complaints.

10 Q. But any complaints about your conduct?

11 A. Yeah. Nonlegal complaints.

12 Q. Okay.

13 A. Legal complaints are treated
14 differently.

15 Q. How are legal complaints handled?

16 A. Those are sent to the paralegal I
17 mentioned, Kim Durr, and she handles them. She
18 notifies the appropriate people that there was a
19 legal complaint received. She notifies our errors
20 and omissions insurance carrier.

21 Q. Okay. If you wanted to find out if
22 anyone has made a complaint about the phone
23 messages saying just the standing alone ARS, how
24 would you find that out?

25 MR. SCHEUERMAN: You are talking

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1 informal complaint, or pleading, a lawsuit?

2 MR. STERN: I'm talking about both.

3 All of them.

4 A. I would go probably through Kim Durr
5 and ask her to look to see.

6 Q. And have you done that in this case?

7 Let me withdraw that. Don't answer that yet.

8 Are you aware of any complaints, formal
9 or otherwise, that have raised the claims that are
10 raised in this case?

11 A. No.

12 Q. Have you asked Kim Durr about whether
13 there are -- have been other cases?

14 MR. SCHEUERMAN: I'm going to object.
15 Kim Durr is a paralegal. She works for a
16 corporate attorney. So to the extent you are
17 getting into what conversations you had,
18 that's protected by attorney-client
19 privilege.

20 MR. STERN: I haven't asked what she
21 said. I asked if he has made the inquiry,
22 that's all I --

23 MR. SCHEUERMAN: You can ask that. But
24 just so everyone is clear.

25 A. I don't think I've asked Kim Durr

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1 specifically that.

2 Q. Okay.

3 MR. STERN: Pass the witness. Do you
4 have questions?

5 MR. SCHEUERMAN: I have a couple follow
6 ups.

7 BY MR. STERN:

8 Q. David, there are instances in which
9 debt collector representatives from the ARS wing
10 of the company have phone communications with
11 consumers, yes or no?

12 A. Yes.

13 Q. And do you classify those people as --
14 what do you call them, agents, debt collectors?

15 A. I call them agents or representatives.

16 Q. Okay. And if you know, how -- when
17 there's an actual phone conversation, how are
18 those people trained to identify Account
19 Resolution Services on the telephone?

20 A. They are trained to use ARS.

21 Q. Again, this is just during phone calls.
22 What's the reason behind during a phone call just
23 using ARS?

24 A. They are talking to consumers and
25 potentially non-consumers, so potentially people

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1 who don't have accounts in collections. And using
2 ARS doesn't disclose the nature of the call until
3 we have had a chance to identify that we are
4 speaking with an actual debtor.

5 Q. Okay. The telephone message that's
6 referenced in D-4, you were asked by counsel when
7 you first started using it. You weren't able --
8 were not able to give a specific date. But do you
9 have an approximation when that message was --
10 when the company started using that message?

11 A. I could tell you approximately in -- I
12 think it's the message that we started using when
13 we first started calling on behalf of ARS.

14 Q. Okay. When was that?

15 A. Around 2009.

16 Q. Okay. So you referenced -- when you
17 were talking about the vendor Genesis, you said
18 something that they do speech analytics software.
19 What exactly is that? Can you explain that to me?

20 A. It is software that is able to use
21 speech recognition and can analyze large volumes
22 of call conversations and put them into -- store
23 them in electronic file folders that can be
24 brought up through queries that we can --

25 Q. That --

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1 A. So it makes the conversations more
2 useable for training, quality assurance, and
3 finding particular topics within the calls --
4 within the call recordings.

5 Q. Do you have a quality control program
6 where executives in the HRRG company listen to
7 past recorded calls from agents?

8 A. Yes.

9 Q. Have you ever taken part in listening
10 to any past recorded calls relating to calls made
11 on behalf of ARS debts?

12 A. Yes.

13 Q. Okay. What name is typically used by
14 those agents on the telephone when referring to
15 Account Resolution Services?

16 A. They refer to it commonly as ARS.

17 Q. Then you were asked a couple of times
18 with certain vendors -- strike that.

19 MR. SCHEUERMAN: I have nothing
20 further.

21 MR. STERN: I have some follow-up
22 things that your counsel asked you about.

23 BY MR. STERN:

24 Q. If I understood, you said that the
25 agents are trained that when they are involved in

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1 a live call that they just use ARS until they know
2 they are actually speaking with the debtor; is
3 that -- did I understand your testimony? Is that
4 your testimony?

5 A. Yes.

6 Q. Once they -- I think earlier we talked
7 about -- when I was asking you, I think you
8 talked about a term you used was "right person."

9 A. Yes.

10 Q. Same meaning, right, the debtor?

11 A. Right party identification.

12 Q. That's right, you said right party not
13 right person.

14 Once the agent determines that they are
15 speaking to the right party, do they mention the
16 full name ARS Account Resolution Services anytime?

17 A. Typically not. They use ARS for the
18 most part.

19 Q. Are there training manuals that govern
20 what this issue -- or training materials I should
21 say. I don't want to limit it to manuals. Any
22 kind of written materials about what name is to be
23 used in telephone conversations?

24 A. There are. There are memos that are
25 used, there are materials they access that are

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1 electronic and stored in directories that are
2 accessible to staff.

3 Q. Just to be clear, when we are talking
4 about agents, are we talking about only the agents
5 that work for the ARS business unit use those
6 terms, correct; in other words, used the term ARS
7 in their phone calls?

8 A. Yes. I'm talking specifically about
9 agents working on behalf of ARS.

10 Q. Okay. And the agents that -- the other
11 agents who work for HRRG don't refer to ARS at
12 all; correct? Rephrase that. Do they refer to
13 ARS -- withdrawn.

14 Do the agents employed by HRRG who are
15 not working for ARS receive any training on using
16 either ARS or ARS Account Resolution Services in
17 their telephone communications with consumers?

18 A. No.

19 Q. Were you involved in the creation or
20 approval of the script that was used to create the
21 message that was involved here?

22 A. Yes.

23 Q. What role -- you were not president at
24 the time, right? Correct?

25 MR. SCHEUERMAN: I'm sorry. What --

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1 objection to form. Do you want me to have
2 him go out? It's one word I'm going to use.

3 MR. STERN: I'll rephrase the question.

4 MR. SCHEUERMAN: Thank you.

5 BY MR. STERN:

6 Q. I think you testified in response to
7 your counsel's question that the message that was
8 used here was a message that started being used in
9 2009; is that correct?

10 A. Yes.

11 Q. I thought you testified you had been
12 president for six years?

13 A. 2013 I think I became president.

14 Q. So the last six years. And prior to
15 that you were vice-president. So you were
16 vice-president at the time that the message was
17 started to be used?

18 A. Yes.

19 Q. So what role did you play with respect
20 to either the development or approval of the
21 message?

22 A. I worked with the assistant
23 vice-presidents in creating the message.

24 Q. Who else was involved in creating the
25 message?

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1 A. I don't know that anyone else was
2 involved.

3 Q. It was you and the assistant
4 vice-president?

5 A. Yes.

6 Q. Who was that assistant vice-president?

7 A. I think at the time it was Judy
8 Oberman.

9 Q. Can you spell the last name?

10 A. O-B-E-R-M-A-N.

11 Q. Is she still with HRRG?

12 A. No.

13 Q. Do you know where she is?

14 A. She is not alive. She passed away.

15 MR. STERN: I have nothing further.

16 MR. SCHEUERMAN: Neither do I.

17 COURT REPORTER: Mr. Scheuerman, did
18 you want a copy?

19 MR. SCHEUERMAN: Yes, ma'am.

20 (Time noted: 5:50 p.m.)

21

22

23

24

25

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Exhibit 1

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C E R T I F I C A T E

I, Kathleen Swenor, do hereby certify
that prior to the commencement of the examination,
DAVID FRIEDLANDER, was duly sworn by me to tell
the truth, the whole truth, and nothing but the
truth.

I do further certify that the foregoing
is a true and accurate transcript of the testimony
as taken stenographically by and before me at this
time, place and date hereinbefore set forth.

I do further certify that I am neither
a relative nor employee nor attorney nor counsel
of any of the parties to this action, and that I
am neither a relative nor employee of such
attorney or counsel, and that I am not financially
interested in the action.

A handwritten signature in black ink, appearing to read 'Kathleen Swenor', is written over the printed name.

Kathleen Swenor, RPR, CCR

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